

MONTANA LEGISLATIVE HISTORY

Chapter 528 19 89

Bill H 603 S _____

Original bill & history ☒ c

H. Committee on Taxation

Hearing Date(s) Feb 14 ☒ c

Feb 15 ☒ c

_____ ☐ c

_____ ☐ c

Date Out Feb 27 ☒ c

S. Committee on Taxation

Hearing Date(s) Mar 16 ☒ c

Mar 28 ☒ c

_____ ☐ c

_____ ☐ c

Mar 29 ☒ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

2/16 COMMITTEE REPORT--BILL PASSED AS AMENDED
 2/18 2ND READING PASSED 93 0
 2/20 TAKEN FROM ENGROSSING
 2/20 REREFERRED TO APPROPRIATIONS
 3/14 HEARING
 3/17 COMMITTEE REPORT--BILL PASSED AS AMENDED
 3/22 2ND READING PASSED 97 0
 3/23 3RD READING PASSED 95 2

 TRANSMITTED TO SENATE
 3/27 REFERRED TO FINANCE & CLAIMS
 4/14 HEARING
 4/15 COMMITTEE REPORT--BILL CONCURRED
 4/17 2ND READING CONCURRED 49 0
 4/19 3RD READING CONCURRED 50 0

 RETURNED TO HOUSE
 4/21 SIGNED BY SPEAKER
 4/21 SIGNED BY PRESIDENT
 4/24 TRANSMITTED TO GOVERNOR
 5/16 SIGNED BY GOVERNOR
 CHAPTER NUMBER 678 EFFECTIVE DATE: 7/01/89

HB 602 INTRODUCED BY ROTH
 INCREASE ALLOWABLE TRUCK COMBINATION LENGTH TO 100
 FEET BY SPECIAL PERMIT

2/07 INTRODUCED
 2/08 REFERRED TO HIGHWAYS & TRANSPORTATION
 2/09 FISCAL NOTE REQUESTED
 2/14 HEARING
 2/15 FISCAL NOTE RECEIVED
 2/17 COMMITTEE REPORT--BILL PASSED AS AMENDED
 2/17 FISCAL NOTE PRINTED
 2/20 2ND READING PASSED 84 11
 2/21 3RD READING PASSED 80 16

 TRANSMITTED TO SENATE
 2/28 REFERRED TO HIGHWAYS & TRANSPORTATION
 3/07 HEARING
 3/21 COMMITTEE REPORT--BILL CONCURRED
 3/22 2ND READING CONCURRED 49 0
 3/27 3RD READING CONCURRED 43 6

 RETURNED TO HOUSE
 3/30 SIGNED BY SPEAKER
 3/30 SIGNED BY PRESIDENT
 3/31 TRANSMITTED TO GOVERNOR
 4/04 SIGNED BY GOVERNOR
 CHAPTER NUMBER 437 EFFECTIVE DATE: 4/04/89

HB 603 INTRODUCED BY RANEY, ET AL.
 ESTABLISH LEAKING PETROLEUM TANK CLEANUP FEE, FUND,
 AND COMPENSATION BOARD

2/07 INTRODUCED
 2/08 REFERRED TO TAXATION
 2/09 FISCAL NOTE REQUESTED
 2/14 HEARING
 2/16 FISCAL NOTE RECEIVED

HOUSE FINAL STATUS

2/18	FISCAL NOTE PRINTED		
2/28	COMMITTEE REPORT--BILL PASSED		
3/04	2ND READING PASSED AS AMENDED	82	3
3/08	3RD READING PASSED	90	2
TRANSMITTED TO SENATE			
3/09	REFERRED TO FINANCE & CLAIMS		
3/14	REREFERRED TO TAXATION		
3/16	HEARING		
3/30	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/31	2ND READING CONCURRED	39	6
4/03	3RD READING CONCURRED	42	8
RETURNED TO HOUSE WITH AMENDMENTS			
4/04	2ND READING AMENDMENTS CONCURRED	71	27
4/05	3RD READING AMENDMENTS CONCURRED	73	24
4/08	SIGNED BY SPEAKER		
4/10	SIGNED BY PRESIDENT		
4/10	TRANSMITTED TO GOVERNOR		
4/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 528		
	EFFECTIVE DATE: 04/13/89 (S1, 2, 8-10, 14-16)		
	EFFECTIVE DATE: 07/01/89 (S6, 7, & 13)		
	EFFECTIVE DATE: 10/01/89 (S3-5, 11, 12)		

HB 604 INTRODUCED BY O'CONNELL, ET AL.
 PROVIDE ALLOWANCE ADJUSTMENT FOR CERTAIN RETIRED
 POLICE OFFICERS

2/08	INTRODUCED		
2/08	REFERRED TO STATE ADMINISTRATION		
2/09	FISCAL NOTE REQUESTED		
2/15	FISCAL NOTE RECEIVED		
2/16	HEARING		
2/16	COMMITTEE REPORT--BILL PASSED		
2/18	2ND READING PASSED	86	9
2/21	3RD READING PASSED	79	18
TRANSMITTED TO SENATE			
2/28	REFERRED TO STATE ADMINISTRATION		
3/08	REVISED FISCAL NOTE RECEIVED		
3/09	FISCAL NOTE PRINTED		
3/10	HEARING		
3/10	COMMITTEE REPORT--BILL CONCURRED		
3/11	2ND READING CONCURRED	42	3
3/14	3RD READING CONCURRED	45	4
RETURNED TO HOUSE			
3/17	SIGNED BY SPEAKER		
3/18	SIGNED BY PRESIDENT		
3/18	TRANSMITTED TO GOVERNOR		
3/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 282 EFFECTIVE DATE: 7/01/89		

HB 605 INTRODUCED BY GRADY, ET AL.
 TRANSFER DEBT COLLECTION FROM DEPARTMENT OF REVENUE
 TO STATE AUDITOR

2/08	INTRODUCED
2/08	REFERRED TO TAXATION

HOUSE BILL NO. 603

INTRODUCED BY RANEY, HARP, STANG, GILBERT, ECK,
COHEN, DRISCOLL, PATTERSON, PAVLOVICH, GUTHRIE,
WALLIN, PINSONEAULT, SQUIRES, SPAETH, HALLIGAN,
B. BROWN, MAZUREK, MEYER, HAGER, MANNING,
BECK, BENGTSON, DARKO, MCDONOUGH, SWYSGOOD, JACOBSON,
O'KEEFE, HARPER, SCHYE, GRADY, DEMARS, GRINDE,
STRIZICH, DAILY, SPRING, THOMAS, MERCER, ADDY, VINCENT

IN THE HOUSE

FEBRUARY 7, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
FEBRUARY 8, 1989	FIRST READING.
FEBRUARY 28, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 1, 1989	PRINTING REPORT.
MARCH 2, 1989	ON MOTION, CONSIDERATION PASSED UNTIL 51ST LEGISLATIVE DAY.
MARCH 4, 1989	SECOND READING, DO PASS AS AMENDED.
MARCH 7, 1989	ENGROSSING REPORT.
MARCH 8, 1989	THIRD READING, PASSED. AYES, 90; NOES, 2.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 9, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FINANCE & CLAIMS.
	FIRST READING.
MARCH 14, 1989	ON MOTION, REREFERRED TO COMMITTEE ON TAXATION.
MARCH 30, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT

4

ADOPTED.

MARCH 31, 1989

SECOND READING, CONCURRED IN.

APRIL 3, 1989

THIRD READING, CONCURRED IN.
AYES, 42; NOES, 8.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 4, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 5, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *603*
 2 INTRODUCED BY *Randy Hargis Gilbert Ed Chen*
 3 *Donnell Patrick Carlton Sullivan*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
 5 REIMBURSEMENT TO OWNERS AND OPERATORS OF PETROLEUM STORAGE
 6 TANKS FOR EXPENSES RELATED TO RELEASES FROM THOSE TANKS;
 7 ESTABLISHING A PETROLEUM STORAGE TANK CLEANUP FEE TO BE PAID
 8 BY GASOLINE DISTRIBUTORS; CREATING A PETROLEUM TANK RELEASE
 9 CLEANUP FUND AND STATUTORILY APPROPRIATING MONEY IN THE
 10 FUND; CREATING A PETROLEUM TANK RELEASE COMPENSATION BOARD;
 11 PROVIDING CRIMINAL PENALTIES FOR CERTAIN MISREPRESENTATIONS;
 12 AMENDING SECTION 17-7-502, MCA; AND PROVIDING EFFECTIVE
 13 DATES."

14
 15 STATEMENT OF INTENT

16 (1) It is the intent of the legislature that the
 17 petroleum tank release compensation board enact rules that:

18 (a) govern submission of claims by owners or operators
 19 to the department and board;

20 (b) provide procedures for determining owners or
 21 operators who are eligible for reimbursement and determining
 22 the validity of claims;

23 (c) provide procedures for conducting board meetings,
 24 hearings, and other business that are necessary for the
 25 implementation of [sections 1 through 7 and 9 through 12];

1 and

2 (d) are necessary for the administration of [sections 1
 3 through 7 and 9 through 12], provided that the rules do not
 4 alter or conflict with the eligibility requirements and
 5 procedures provided in [sections 1 through 7 and 9 through
 6 12] or with the laws, rules, or procedures of the federal
 7 government or the department of health and environmental
 8 sciences that govern releases from petroleum storage tanks.

9 (2) The department of health and environmental sciences
 10 may adopt rules necessary to administer its responsibilities
 11 under [sections 1 through 7 and 9 through 12], including
 12 requirements for approval of corrective action plans.

13 (3) The department of revenue shall adopt rules
 14 governing the collection of the petroleum storage tank
 15 cleanup fee provided for in [section 7]. The rules may
 16 include reporting and recordkeeping requirements, method and
 17 timing of payment, examination of records, and other
 18 provisions necessary to ensure that fees are properly and
 19 efficiently collected. The rules must be generally
 20 consistent with procedures governing the collection of the
 21 gasoline license tax provided for in Title 15, chapter 70,
 22 so that gasoline distributors experience minimum additional
 23 requirements or responsibilities.

24
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Findings and purposes. (1) The

legislature finds that the use of petroleum products stored in tanks contributes significantly to the economic well-being and quality of life of Montana citizens.

(2) The legislature finds that leaks, spills, and other releases of petroleum products from storage tanks endanger public health and safety, ground water quality, and other state resources.

(3) The legislature finds that current administrative and financial resources of the public and private sectors are inadequate to address problems caused by releases from petroleum storage tanks and need to be supplemented by a major program of release detection and corrective action.

(4) The legislature finds that proper funding for the program is through a petroleum storage tank cleanup fee paid by persons who use and receive the benefits of petroleum products. The legislature further finds that this general use fee, provided for in [section 7], is intended solely to support a program to pay for corrective action and damages caused by releases from petroleum storage tanks. The general use fee is collected from distributors for administrative convenience and is not intended as a method for collecting highway revenue pursuant to the provisions of Article VIII, section 6, of the Montana constitution. The fee is intended to implement the legislature's duty to provide for the

administration and enforcement of maintaining and improving a clean and healthful environment for present and future generations, as required by Article IX, section 1, of the Montana constitution.

(5) The purposes of [sections 1 through 7 and 9 through 12] are to:

(a) protect public health and safety and the environment by providing prompt detection and cleanup of petroleum tank releases;

(b) provide adequate financial resources and effective procedures through which tank owners and operators may undertake and be reimbursed for corrective action and payment to third parties for damages caused by releases from petroleum storage tanks; and

(c) assist tank owners and operators in meeting financial assurance requirements under state and federal law governing releases from petroleum storage tanks.

NEW SECTION. Section 2. Definitions. The following definitions apply to [sections 1 through 7 and 9 through 12]:

(1) "Accidental release" means a sudden or nonsudden release, neither expected nor intended by the tank owner or operator, of petroleum or petroleum products from a storage tank that results in a need for corrective action or compensation for third party bodily injury or property

1 damage.

2 (2) "Board" means the petroleum tank release
3 compensation board established in [section 8].

4 (3) "Bodily injury" means physical injury, sickness, or
5 disease sustained by an individual, including death that
6 results from the physical injury, sickness, or disease at
7 any time.

8 (4) "Claim" means a written request prepared and
9 submitted by an owner or operator or an agent of the owner
10 or operator for reimbursement of expenses caused by an
11 accidental release from a petroleum storage tank.

12 (5) "Corrective action" means investigation,
13 monitoring, cleanup, restoration, abatement, removal, and
14 other actions necessary to respond to a release.

15 (6) "Department" means the department of health and
16 environmental sciences provided for in Title 2, chapter 15,
17 part 21.

18 (7) "Distributor" means a distributor as defined in
19 15-70-201.

20 (8) "Eligible costs" means expenses reimbursable under
21 [section 3].

22 (9) "Fee" means the petroleum storage tank cleanup fee
23 provided for in [section 7].

24 (10) "Fund" means the petroleum tank release cleanup
25 fund established in [section 6].

1 (11) "Gasoline" means gasoline as defined in 15-70-201.

2 (12) "Operator" means a person in control of or having
3 responsibility for the daily operation of a petroleum
4 storage tank.

5 (13) "Owner" means a person who holds title to,
6 controls, or possesses an interest in a petroleum storage
7 tank. The term does not include a person who holds an
8 interest in a tank solely for financial security, unless
9 through foreclosure or other related actions the holder of a
10 security interest has taken possession of the tank.

11 (14) "Person" means an individual, firm, trust, estate,
12 partnership, company, association, joint stock company,
13 syndicate, consortium, commercial entity, corporation, or
14 agency of state or local government.

15 (15) "Petroleum" or "petroleum products" means crude oil
16 or any fraction thereof that is liquid at standard
17 conditions of temperature and pressure (60 degrees F and
18 14.7 pounds per square inch absolute).

19 (16) "Petroleum storage tank" means a tank that contains
20 petroleum or petroleum products and that is:

21 (a) an underground storage tank as defined in
22 75-10-403;

23 (b) a storage tank that is situated in an underground
24 area such as a basement, cellar, mine, draft, shaft, or
25 tunnel;

1 (c) an above ground storage tank with a capacity less
2 than 30,000 gallons; or

3 (d) above ground or underground pipes associated with
4 tanks under subsections (16)(b) and (16)(c), except that
5 pipelines regulated under the following laws are excluded:

6 (i) the Natural Gas Pipeline Safety Act of 1968 (49
7 U.S.C. 1671, et seq.);

8 (ii) the Hazardous Liquid Pipeline Safety Act of 1979
9 (49 U.S.C. 2001, et seq.); and

10 (iii) state law comparable to the provisions of law
11 referred to in subsections (16)(d)(i) and (16)(d)(ii), if
12 the facility is intrastate.

13 (17) "Property damage" means:

14 (a) physical injury to tangible property, including
15 loss of use of that property caused by the injury; or

16 (b) loss of use of tangible property that is not
17 physically injured.

18 (18) "Release" means a release, as defined in 75-10-701,
19 of petroleum or petroleum products from a petroleum storage
20 tank.

21 **NEW SECTION. Section 3. Reimbursement for expenses**
22 **caused by a release.** (1) Subject to the availability of
23 funds under subsection (5), an owner or operator who is
24 eligible under [section 4] and complies with [section 5] and
25 any rules adopted to implement those sections must be

1 reimbursed by the board from the fund for the following
2 eligible costs caused by a release from a petroleum storage
3 tank:

4 (a) corrective action costs; and

5 (b) compensation paid to third parties for bodily
6 injury or property damage.

7 (2) An owner or operator may not be reimbursed from the
8 fund for the following expenses:

9 (a) corrective action costs or the costs of bodily
10 injury or property damage paid to third parties that are
11 determined by the board to be ineligible for reimbursement;

12 (b) costs for bodily injury and property damage, other
13 than corrective action costs, incurred by the owner or
14 operator;

15 (c) penalties or payments for damages incurred under
16 actions by the department, board, or federal, state, local,
17 or tribal agencies or other government entities involving
18 judicial or administrative enforcement activities and
19 related negotiations;

20 (d) attorney fees and legal costs of the owner,
21 operator, or a third party;

22 (e) costs for the repair or replacement of a tank or
23 piping or costs of other materials, equipment, or labor
24 related to the operation, repair, or replacement of a tank
25 or piping;

(f) expenses incurred before [the date of passage and approval of this act];

(g) expenses exceeding the maximum reimbursements provided for in subsection (4).

(3) An owner or operator may designate a person as his agent to receive the reimbursement.

(4) Subject to the availability of funds under subsection (5):

(a) for releases that are discovered and reported on or after [the date of passage and approval of this act] and before October 1, 1991, the board shall reimburse an owner or operator for all eligible costs up to a maximum reimbursement of \$1 million for a release; or

(b) for releases that are discovered on or after October 1, 1991, an owner or operator shall pay the first \$25,000 in eligible costs and the board shall reimburse an owner or operator for all subsequent eligible costs up to a maximum reimbursement of \$975,000 for a release.

(5) If the fund does not contain sufficient money, a reimbursement may not be made and the fund and the board are not liable for making any reimbursement. If and when the fund contains sufficient money, eligible costs must be reimbursed subsequently in the order in which they were approved by the board.

NEW SECTION. **Section 4. Eligibility.** (1) An owner or

operator is eligible for reimbursement for eligible costs caused by a release from a petroleum storage tank only if:

(a) the release was discovered on or after [the date of passage and approval of this act];

(b) the department is notified of the release in the manner and within the time provided by law or rule;

(c) the department has been notified of the existence of the tank in the manner required by department rule;

(d) the release was an accidental release; and

(e) with the exception of the release, the operation and management of the tank complied with applicable state and federal laws and rules when the release occurred and remained in compliance following detection of the release.

(2) An owner or operator is not eligible for reimbursement for expenses caused by releases from the following petroleum storage tanks:

(a) a tank located at a refinery or a terminal of a refiner;

(b) a tank located at an oil and gas production facility;

(c) a tank that is or was previously under the ownership or control of a railroad;

(d) a tank belonging to the federal government;

(e) a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for

1 noncommercial purposes or a tank used for storing heating
2 oil for consumptive use on the premises where stored;

3 (f) a tank owned or operated by a person who has been
4 convicted of a substantial violation of state or federal law
5 or rule that relates to the installation, operation, or
6 management of petroleum storage tanks; or

7 (g) a mobile storage tank used to transport petroleum
8 or petroleum products from one location to another.

9 NEW SECTION. Section 5. Procedures for reimbursement
10 of eligible costs. (1) An owner or operator seeking
11 reimbursement for eligible costs and the department shall
12 comply with the following procedures:

13 (a) If an owner or operator discovers or is provided
14 evidence that a release may have occurred from his petroleum
15 storage tank, he shall immediately notify the department of
16 the release and conduct an initial response to the release
17 in accordance with state and federal laws and rules to
18 protect public health and safety and the environment.

19 (b) The owner or operator shall conduct a thorough
20 investigation of the release, report the findings to the
21 department, and, as determined necessary by the department,
22 prepare and submit for approval by the department a
23 corrective action plan that conforms with state and federal
24 corrective action requirements.

25 (c) (i) The department shall review the corrective

1 action plan and forward a copy to a local government office
2 with jurisdiction over a corrective action for the release.
3 The local government office shall inform the department if
4 it wants any modification of the proposed plan.

5 (ii) Based on its own review and comments received from
6 a local government or other source, the department may
7 approve the proposed corrective action plan, make or request
8 the owner or operator to modify the proposed plan, or
9 prepare its own plan for compliance by the owner or
10 operator. A plan finally approved by the department through
11 any process provided in this subsection (c) is the approved
12 corrective action plan.

13 (iii) After the department approves a corrective action
14 plan, a local government may not impose different corrective
15 action requirements on the owner or operator.

16 (d) The department shall notify the owner or operator
17 and the board of its approval of a corrective action plan.

18 (e) The owner or operator shall implement the approved
19 plan. The department may oversee the implementation of the
20 plan, require reports and monitoring from the owner or
21 operator, undertake inspections, and otherwise exercise its
22 authority concerning corrective action under Title 75,
23 chapter 10, parts 4 and 7, and other applicable law and
24 rules.

25 (f) The owner or operator shall document in the manner

1 required by the board all expenses incurred in preparing and
2 implementing the corrective action plan. The owner or
3 operator shall submit claims and substantiating documents to
4 the department in the form and manner required by the board.
5 The department shall forward each claim and appropriate
6 documentation to the board and notify the board of any costs
7 that the department considers not reimbursable because of
8 any failure to meet the requirements of subsection (2). The
9 department shall inform the owner or operator of any
10 notification given notice to the board.

11 (g) The owner or operator shall document, in the manner
12 required by the board, any payments to a third party for
13 bodily injury or property damage caused by a release. The
14 owner or operator shall submit claims and substantiating
15 documents to the board in the form and manner required by
16 the board.

17 (2) The board shall review each claim received under
18 subsections (1)(f) and (1)(g), make the determination
19 required by this subsection, inform the owner or operator of
20 its determination, and, as appropriate, reimburse the owner
21 or operator from the fund. Before approving a reimbursement,
22 the board shall affirmatively determine that:

23 (a) the expenses for which reimbursement is claimed:

24 (i) are eligible costs; and

25 (ii) were actually, necessarily, and reasonably incurred

1 for the preparation or implementation of a corrective action
2 plan approved by the department or for payments to a third
3 party for bodily injury or property damage; and

4 (b) the owner or operator:

5 (i) is eligible for reimbursement under [section 4];

6 and

7 (ii) has complied with this section and any rules
8 adopted pursuant to this section.

9 (3) If an owner or operator disagrees with a board
10 determination under subsection (2), he may submit a written
11 request for a hearing before the board. The hearing must be
12 held at a meeting of the board no later than 120 days
13 following receipt of the request or at a time mutually
14 agreed to by the board and the owner or operator.

15 (4) The board shall obligate money for reimbursement of
16 eligible costs of owners and operators in the order that the
17 costs are finally approved by the board.

18 (5) (a) The board may, at the request of an owner or
19 operator, guarantee in writing the reimbursement of eligible
20 costs that have been approved by the board but for which
21 money is not currently available from the fund for
22 reimbursement.

23 (b) The board may, at the request of an owner or
24 operator, guarantee in writing reimbursement of eligible
25 costs not yet approved by the board, including estimated

costs not yet incurred. However, the guarantee must include a proviso stating that the guarantee of reimbursement applies only to eligible costs subsequently approved by the board under the procedures and criteria provided in [sections 1 through 7 and 9 through 12]. A guarantee for payment under this subsection (5)(b) does not affect the order in which money in the fund is obligated under subsection (4).

(c) When considering a request for a guarantee of payment, the board may require pertinent information or documentation from the owner or operator. The board may grant or deny, in whole or in part, any request for a guarantee.

NEW SECTION. Section 6. Petroleum tank release cleanup fund. (1) There is a petroleum tank release cleanup fund in the state special revenue fund established in 17-2-102. The fund is administered as a revolving fund by the board and is statutorily appropriated as provided in 17-7-502.

(2) There is deposited in the fund:

(a) all revenue from the petroleum storage tank cleanup fee as provided in [section 7];

(b) money received by the board in the form of gifts, grants, reimbursements, or appropriations, from any source, intended to be used for the purposes of this fund;

(c) money appropriated or advanced to the fund by the

legislature; and

(d) all interest earned on money in the fund.

(3) The fund may be used only:

(a) to administer [sections 1 through 7 and 9 through 12], including payment of board and department expenses associated with administration;

(b) to reimburse owners and operators for eligible costs caused by a release from a petroleum storage tank and approved by the board; and

(c) for repayment of any advance made under subsection (4), plus interest earned on the advance.

(4) (a) The legislature may appropriate to the fund repayable advances as necessary to carry out the purposes of [sections 1 through 7 and 9 through 12]. The outstanding total of repayable advances may not exceed the amount the board estimates will be received by the fund from the petroleum storage tank cleanup fee during the next 24 months.

(b) Advances to the fund must be repaid and interest earned on advances must be paid to the general fund when determined appropriate by the board. However, all advances to the fund plus the interest earned must be repaid on or before December 31, 1995.

NEW SECTION. Section 7. Petroleum storage tank cleanup fee. (1) Except as provided in subsection (4), every

1 distributor shall pay to the department of revenue a
2 petroleum storage tank cleanup fee equal to 0.75 cent for
3 each gallon of gasoline distributed by him within the state
4 and upon which the fee has not been paid by any other
5 distributor.

6 (2) Gasoline exported or sold for export out of the
7 state may not be included in the measure of a distributor's
8 fee.

9 (3) Alcohol that is blended with gasoline to be sold as
10 gasohol is subject to the fee provided in subsection (1).

11 (4) A fee may not be imposed or collected beginning on
12 the first day of the first month in the first calendar
13 quarter after the unobligated balance in the fund equals or
14 exceeds \$8 million. Whenever the unobligated fund balance is
15 less than \$4 million, the department of revenue shall,
16 within 7 days, notify distributors by mail that the fee is
17 reinstated beginning on the first day of the first month
18 that begins no less than 30 days after the date of the
19 notice. Once reinstated, the fee must be imposed and
20 collected until the unobligated fund balance again equals or
21 exceeds \$8 million.

22 NEW SECTION. Section 8. Petroleum tank release
23 compensation board. (1) There is a petroleum tank release
24 compensation board.

25 (2) The board consists of seven members appointed by

1 the governor as follows:

2 (a) the director of the department of health and
3 environmental sciences or his representative;

4 (b) the state fire marshal or his representative;

5 (c) a representative of the petroleum services
6 industry;

7 (d) a representative of independent petroleum marketers
8 and chain retailers;

9 (e) a representative of the general public;

10 (f) a representative of service station dealers; and

11 (g) a representative of the insurance industry.

12 (3) The board shall elect a chairman.

13 (4) The term of membership is 3 years.

14 (5) Members shall serve without pay, but are entitled
15 to reimbursement for travel, meals, and lodging while
16 engaged in board business, as provided in 2-18-501 through
17 2-18-503.

18 NEW SECTION. Section 9. Powers and duties of board.

19 (1) The board shall administer the petroleum tank release
20 cleanup fund in accordance with the provisions of [sections
21 1 through 7 and 9 through 12], including the payment of
22 reimbursement to owners and operators.

23 (2) The board shall determine whether to approve
24 reimbursement of eligible costs under the provisions of
25 [section 5(2)], shall obligate money from the fund for

1 approved costs, and shall act on requests for the guarantee
2 of payments through the procedures and criteria provided in
3 [section 5].

4 (3) The board may conduct meetings, hold hearings,
5 undertake legal action, and conduct other business as may be
6 necessary to administer its responsibilities under [sections
7 1 through 7 and 9 through 12]. The board shall meet at least
8 quarterly for the purpose of reviewing and approving claims
9 for reimbursement from the fund and conducting other
10 business as necessary.

11 (4) The board may hire staff, and the department shall
12 provide staff support to the board as the department
13 determines it is able. The board shall use the fund to pay
14 its staff expenses and to pay for department staff utilized
15 for the review or preparation of corrective action plans and
16 for the oversight of corrective action undertaken by owners
17 and operators for the purposes of [sections 1 through 7 and
18 9 through 12].

19 (5) The board shall adopt rules to administer [sections
20 1 through 7 and 9 through 12], including:

21 (a) rules governing submission of claims by owners or
22 operators to the department and board;

23 (b) procedures for determining owners or operators who
24 are eligible for reimbursement and determining the validity
25 of claims;

1 (c) procedures for conducting board meetings, hearings,
2 and other business necessary for the implementation of
3 [sections 1 through 7 and 9 through 12]; and

4 (d) other rules necessary for the administration of
5 [sections 1 through 7 and 9 through 12].

6 NEW SECTION. **Section 10.** Rulemaking authority --
7 department and department of revenue. (1) The department may
8 adopt rules necessary to administer its responsibilities
9 under [sections 1 through 7 and 9 through 12], including
10 requirements for approval of corrective action plans.

11 (2) The department of revenue shall adopt rules
12 governing the collection of the petroleum storage tank
13 cleanup fee. The rules may include, at a minimum, reporting
14 and recordkeeping requirements, method and timing of
15 payment, and examination of records. The rules must be
16 generally consistent with procedures governing the
17 collection of the gasoline license tax provided for in Title
18 15, chapter 70.

19 NEW SECTION. **Section 11.** Other authorities unaffected.
20 Payment of reimbursement, approval of a corrective action
21 plan, or other action of the department or the board under
22 [sections 1 through 7 and 9 through 12] does not affect the
23 authority of the department or any other state agency to
24 pursue an action authorized by Title 75, chapter 10, parts 4
25 or 7, or any other law or rule that applies to releases from

1 petroleum storage tanks.

2 NEW SECTION. **Section 12. Criminal penalties.** A person
3 who knowingly misrepresents the date of discovery of a
4 release, submits or causes to be submitted a fraudulent
5 claim or document, or makes a false statement or
6 representation in seeking or assisting a person to seek
7 reimbursement under [sections 1 through 7 and 9 through 12]
8 is subject to a fine not to exceed \$10,000 for each
9 violation or imprisonment not to exceed 6 months, or both.
10 A person convicted of a second or subsequent violation of
11 this section is subject to a fine not to exceed \$20,000 for
12 each violation or imprisonment not to exceed 1 year, or
13 both.

14 **Section 13.** Section 17-7-502, MCA, is amended to read:

15 "17-7-502. Statutory appropriations -- definition --
16 requisites for validity. (1) A statutory appropriation is an
17 appropriation made by permanent law that authorizes spending
18 by a state agency without the need for a biennial
19 legislative appropriation or budget amendment.

20 (2) Except as provided in subsection (4), to be
21 effective, a statutory appropriation must comply with both
22 of the following provisions:

23 (a) The law containing the statutory authority must be
24 listed in subsection (3).

25 (b) The law or portion of the law making a statutory

1 appropriation must specifically state that a statutory
2 appropriation is made as provided in this section.

3 (3) The following laws are the only laws containing
4 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
5 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
6 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;
7 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
8 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
9 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
10 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;
11 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501;
12 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101;
13 75-7-305; [section 6]; 76-12-123; 80-2-103; 80-2-228;
14 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306;
15 90-15-103; section 13, House Bill No. 861, Laws of 1985; and
16 section 1, Chapter 454, Laws of 1987.

17 (4) There is a statutory appropriation to pay the
18 principal, interest, premiums, and costs of issuing, paying,
19 and securing all bonds, notes, or other obligations, as due,
20 that have been authorized and issued pursuant to the laws of
21 Montana. Agencies that have entered into agreements
22 authorized by the laws of Montana to pay the state
23 treasurer, for deposit in accordance with 17-2-101 through
24 17-2-107, as determined by the state treasurer, an amount
25 sufficient to pay the principal and interest as due on the

1 bonds or notes have statutory appropriation authority for
 2 such payments. (In subsection (3): pursuant to sec. 15, Ch.
 3 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
 4 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
 5 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
 6 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
 7 1987, terminates July 1, 1988.)"

8 NEW SECTION. Section 14. Initial appointments to
 9 board. (1) Notwithstanding [section 8], the members of the
 10 petroleum tank release compensation board first appointed by
 11 the governor shall serve for terms to be designated by the
 12 governor and to expire on June 30 of the respective year.
 13 The terms of two members must expire in 1990, two in 1991,
 14 and three in 1992.

15 (2) The governor shall make the initial appointments to
 16 the board no later than June 30, 1989.

17 NEW SECTION. Section 15. Severability. If a part of
 18 [this act] is invalid, all valid parts that are severable
 19 from the invalid part remain in effect. If a part of [this
 20 act] is invalid in one or more of its applications, the part
 21 remains in effect in all valid applications that are
 22 severable from the invalid applications.

23 NEW SECTION. Section 16. Effective dates. (1)
 24 [Sections 1, 2, 8, 9, 10, 14, 15,] and this section are
 25 effective on passage and approval.

1 (2) [Sections 6, 7, and 13] are effective July 1, 1989.

2 (3) [Sections 3, 4, 5, 11, and 12] are effective
 3 October 1, 1989.

-End-

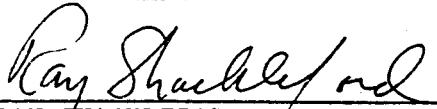
In compliance with a written request, there is hereby submitted a Fiscal Note for HB603, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for reimbursement to owners and operators of petroleum storage tanks for expenses related to releases from those tanks; establishing a petroleum storage tank cleanup fee to be paid by gasoline distributors; creating a petroleum tank release cleanup fund and statutorily appropriating money in the fund; creating a petroleum tank release compensation board; providing criminal penalties for certain misrepresentations; amending Sections 17-7-502, MCA; and providing effective dates.

ASSUMPTIONS:Department of Health and Environmental Sciences

1. It is estimated that 418,183,000 and 412,087,000 gallons of gasoline will be consumed in FY90 and FY91, respectively. (REAC)
2. In FY88, 1,541,690 gallons of gasohol were sold. This number is assumed constant through the next biennium. (Motor Fuels Division)
3. Under the proposal, gasoline and gasohol distributors would pay a petroleum storage tank cleanup fee of 0.75¢ for every gallon of gasoline and gasohol distributed.
4. Board responsibilities for rules, procedures, claim payment and rejection defense will require a minimum of 6 FTE; 1 G-15 accountant, 1 G-17 attorney, 1 G-9 clerical, 1 G-15 fund manager, 2 G-14 claim processors/program assistants.
5. Board meets minimum 4 times per year to pay claims.
6. DHES responsibilities for applicant eligibility review, site inspection, corrective action plan review, approval and oversight, and making recommendations to the board will require a minimum of 13 FTE, 3 G-8 clerical, 10 G-15 hydrogeologists/engineers. Caseload per G-15 FTE assumed to be approximately 26 sites or two weeks per site.
7. 18,200 known underground tanks in Montana (DHES UST database). Number of known underground tanks is approximately 60% of actual total in Montana. Only 60% of the tank owners have notified DHES.
8. 15,100 are currently in use - assume bill only covers active tanks. 3,000 out of service tanks will not be covered for removal or cleanup if needed.
9. 40% are not included in this bill (small farm/heating oil tanks).
10. 9,000 known active underground tanks subject to bill.
11. Unknown number of aboveground tanks and lines included in bill.
12. 4,000 active tanks are required by federal law to be leak tested by December 1991.
13. However, it is likely that nearly all 9,000 plus tanks will be leak tested during amnesty period to October 1991.
14. Assume leak rate of 14% (conservative). High leak rate ranges up to 45% leakers based on age of Montana's tanks.


RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/15/89

BOB RANEY, PRIMARY SPONSOR

DATE 2/17/89

Fiscal Note for HB603, as introduced

HB 603

Fiscal Note Request HB603 as introduced

Form BD-15

Page 2

15. 560 to 1,260 releases discovered based on only 4,000 to 9,000 tested.
16. Cleanup costs average \$25,000 (low). EPA estimate = \$36,000.
17. Range of cleanup cost during amnesty: \$14,000,000 to \$31,500,000. Unfunded liability to program fund during amnesty program.

ASSUMPTIONS:

Department of Revenue

1. It is estimated that 418,183,000 and 412,087,000 gallons of gasoline will be consumed in FY90 and FY91. respectively. (REAC)
2. In FY88, 1,541,690 gallons of gasohol were sold. This number is assumed constant through the next biennium. (Motor Fuels Division)
3. Under the proposal, gasoline and gasohol distributors would pay a petroleum storage tank cleanup fee of 0.75¢ for every gallon of gasoline and gasohol distributed.
4. Administrative expenses under the proposed law:
Computer Development Cost: Computer generating, compiling, and testing costs @ \$1,155
Programming and testing costs 110 hrs at \$26/hr.
Documentation and administrative costs @ \$429
On-going Computing Costs: Disk space @ \$10 periodic batch program @ \$50

FISCAL IMPACT:

Revenue Impact:	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Petroleum Storage						
Tank Clean-up Fund	\$ 0	\$ 3,147,935	\$3,147,935	\$ 0	\$ 3,102,215	\$3,102,215
Department of Health						
Expenditures:						
Personal Services	\$ 0	\$ 479,100	\$ 479,100	\$ 0	\$ 479,100	\$ 479,100
Operating Expenses	0	158,000	158,000	0	158,000	158,000
Capital Outlay	0	30,500	30,500	0	10,000	10,000
Local Assistance, Grants						
Benefits and Claims	0	\$ 2,475,831	\$2,475,831	\$ 0	\$ 2,455,055	\$ 2,455,055
Department of Revenue						
Expenditures:						
Personal Services	\$ 0	\$ 3,289	\$ 3,289	\$ 0	\$ 0	\$ 0
Operating Expenses	0	1,215	1,215	0	60	60
TOTAL	\$ 0	\$ 4,504	\$ 4,504	\$ 0	\$ 60	\$ 60
TOTAL EXPENDITURES:						
Fund Impact:						
State Special						
Revenue	\$ 0	\$ 3,147,935	\$3,147,935	\$ 0	\$ 3,102,215	\$3,102,215

EFFECT ON COUNTY OR LOCAL REVENUE OR EXPENDITURE:

Local review, comment and oversight of corrective action plans - unknown impact.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

1. Greatest demand on fund and government services is during the amnesty program in the first two years and will continue beyond as claims during amnesty will exceed fund revenue and government's ability to process claims.
2. Demand will decrease as amnesty claims backlog is resolved and \$25,000 owner deductible is required.
3. Following amnesty period and initial cleanup as well as full implementation of leak prevention and detection regulations, number of leaks should decrease and size of claim for cleanup should decrease. Owner's \$25,000 deductible payment may cover most costs of most leaks except where groundwater is impacted.

TECHNICAL OR MECHANICAL DEFECT OR CONFLICTS WITH EXISTING LEGISLATION:

1. Some underground tank owners excluded from coverage are required by federal law to provide their own financial responsibility (eg. chemical tanks, railroads, refineries).
2. Other underground tank owners excluded from federal financial responsibility requirements may be included by state law but are excluded from coverage in this bill (eg. heating oil tanks, small farm tanks). In any event state law will require cleanup of releases from these tanks.
3. Other tank owners are not regulated by state or federal financial responsibility requirements, but are included in coverage by this bill (eg. aboveground tanks, aboveground lines, state tanks).

Form CS-32
Rev. 1985

STATUS SHEET

51st.LEGISLATIVE SESSION

TAXATION

COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
HB543	2/2/89	2/9/89	Transferred to State Administration								
HB545	2/2/89	2/8/89	2/8/89	2/8/89							
HB560	2/3/89	2/16/89	2/9/89								
HB564	2/6/89	2/1/89	2/28/89	2/28/89							
HB566	2/6/89	2/16/89	2/16/89			2/16/89					
HB567	2/6/89	2/16/89	2/16/89			2/16/89					
HB586	2/7/89	3/1/89	2/9/89								
HB588	2/7/89	2/14/89	2/14/89	2/16/89							
HB589	2/7/89	2/17/89	2/17/89			2/17/89					
HB590	2/7/89	2/16/89	2/16/89	2/16/89							
HB603	2/8/89	2/14/89	2/15/89	2/15/89							
HB605	2/8/89	Transferred to State Administration									
HB607	2/8/89	2/15/89	2/28/89	2/28/89							
HB613	2/17/89	3/16/89	2/16/89			2/16/89					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Harrington, on February 14, 1989, at 8:00 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Dave Bohyer, Legislative Council

Announcements/Discussion: Chairman Harrington reminded all of the witnesses to sign the visitor's register.

HEARING ON HOUSE BILL 603

Presentation and Opening Statement by Sponsor:

Rep. Bob Raney, District 82, stated the bill is to assist independent gas station operators, small service stations and some distributors with the costs of adhering to the environmental rules and regulations imposed upon them. EPA guidelines require extensive insurance and financial responsibility which is difficult for the small business. Rep. Raney stated HB 603 is to assist the small operators to stay in business and to help clean up the environment. He stated that many small stations in little towns across the state will have to close due to the costs of the EPA standards if they do not receive assistance. This could result in difficulties for travelers who are unable to obtain gasoline for hundreds of miles if the small stations in little communities are forced to terminate their businesses. HB 603 encourages prompt detection and cleanup of releases, assists tank owners and operators with financial assurance requirements, and reimburses those owners and operators for environmental cleanup and third party payments. This is accomplished by the creation of a board to oversee a fund created by a 3/4 cent tax increase on each gallon of gasoline. The board will also establish rules for detection, cleanup and reimbursement.

Testifying Proponents and Who They Represent:

Steve Biskin, President, Montana Petroleum Marketers

Association

Rona Alexander, Director, Petroleum Marketing Association
Chris Kaufman, Montana Environmental Information Center
Pat McKutchen, Helena Insurance Agent
L. G. Lund, Dalkon Distributing
Doug Alexander, Bozeman Petroleum Marketer
Larry Mitchell, Department of Health & Undergraduate
Sciences
John Augustine, Registered Lobbyist for Conoco
Riley Johnson, Automotive Trades of Montana

Proponent Testimony:

Steve Biskin stated HB 603 establishes a petroleum tank release clean up fund which will be used to support a program for corrective action of damages created by releases from petroleum storage tanks. Each gasoline distributor will pay into the fund 3/4 of a cent on each gallon of gasoline he buys. This money will be collected by the Department of Revenue using existing procedures and current personnel. Little additional cost will be required to operate this fund. The fund will continue to build until it reaches the level of \$8,000,000.00. When this occurs, the fee will be discontinued and will not be reinstated unless the fund drops to \$4,000,000.00. The fund will continually earn interest and it is quite likely that once it reaches the eight million dollar level, it may never drop to the four million and the fee may not have to be reinstated at all. Mr. Biskin stated the fund will collect approximately \$3,000,000.00 each year until reaching the \$8,000,000.00 level. He said the governor will appoint a board to oversee and administer the fund and preexisting conditions are not covered under the reimbursement plan. Underground tanks are required to be properly registered and there are requirements by the state at the present time. The release must be accidental and the tank has to have been managed in a proper manner meeting all federal and state guidelines. Tanks excluded from the bill are tanks located at a refinery or terminal, tanks located at an oil and gas production facility, tanks owned by a railroad, tanks belonging to the federal government, farm or residential tanks under 1100 gallons, tanks owned or operated by a person who has been found guilty of improper handling or management of their tanks in the past by a federal or state agency. Costs associated with reimbursement are costs associated with analyzing the leak, contamination and the actual cleanup. Costs associated with the replacement of the tank and replacement of the lines are not covered, no legal costs are covered and the first \$25,000.00 expense in the cleanup is not covered. A two year period is provided in which all expenses would be paid. The \$25,000.00 deductible starts after the two year period. The rationale for this is to encourage people to clean up their underground storage. Mr. Biskin stated it is imperative to help small businesses survive and the EPA standards must be met in order for

retail businesses to operate. The insurance costs for most of the small businesses are prohibitive. Diesel fuel is not included in the tax because it is currently sold on a non-tax basis and the cost of collecting this tax would be prohibitive.

Rona Alexander presented the committee with statistical information concerning the petroleum industry as it related to the bill. (Exhibits 1,2,3,4). She spoke in support of the bill.

Chris Kaufman stated her organization was very concerned with the underground storage tank leakage problem which they consider to be a critical environmental problem. She stated they actively support the cleanup of these leaks and that HB 603 is a good start toward this end.

Pat McKutcheon stated he is an insurance agent who insures many of the petroleum industry people. He stated one of the major concerns is the financial responsibility requirement of the EPA. Mr. McKutcheon stated there needs to be availability and affordability in the insurance required. Only one insurance company in Montana is currently providing pollution coverage and this is very expensive. He stated these are legitimate concerns that need to be addressed and urged support of the bill.

L. G. Lund stated his company supplies petroleum products to 26 Montana dealers and none of them have any pollution insurance. It is not available to them and they could not afford the cost if it were available. Mr. Lund stated these dealers will have to close if there is no method to satisfy this EPA requirement. He stated the premium costs have increased 700% in the last three years. He urged support of the bill.

Doug Alexander spoke in support of the bill. (Exhibit 5).

Larry Mitchell spoke in support of the bill and submitted additional documents that relate to the petroleum industry. (Exhibits 6, 7, 8, and 9).

John Augustine stated this bill is very important to small station operators. He said one underground leak could mean bankruptcy for the small owner/operator. Mr. Augustine stated he was concerned with the inclusion of above ground storage tanks in the bill and also that there was no preemption of cities and towns. He stated any city or town could pass their own bill which could be much more stringent. He felt there should be uniform rules and regulations but he would still support the bill.

Riley Johnson stated his organization represents the small station owners and they are presently faced with a critical problem in the matter of the required insurance. He stated

they could not buy the insurance at all. He said his organization supported the bill but requested that the committee take a very close look at the \$25,000.00 deductible since this would be prohibitive to many small owner/operators. He asked that the committee consider amending the bill to eliminate this requirement.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Patterson asked Rep. Raney about Section 4, Page 10 of the bill which lists the exemptions but does not include the State of Montana and asked if they should not be included. Rep. Raney asked why the state should be exempted. Rep. Patterson responded that the state tanks are owned by the Highway Department and the state certainly has the ability to buy insurance. Mr. Biskin responded at Rep. Raney's request. He stated the state and counties had been considered but the EPA requires that the counties have a similar level of coverage and the state does pay the fuel tax and therefore it was considered appropriate to include them but if the committee wished to change this, he would have no objection.

Rep. Ream asked Mr. Mitchell regarding the \$8,000,000.00 cap on the fund and asked if it was correct that Mr. Mitchell had indicated it would be some time before this amount would be reached. Mr. Mitchell replied that was true. He indicated there would be a lot of leaks discovered in the first few years of the program that will require investigation and/or remedial action. Rep. Ream then asked Mr. Biskin if he cared to respond. Mr. Biskin replied that the expenditures for the first year will probably be larger than three million. He stated the bill has provisions for this which involve allowing the board to guarantee to the owner, a payment at a later date even if funds are not currently available. The owner could then acquire a loan from a bank on this guarantee. The Legislature can also loan money to the fund for a period of time, no more than what would be collected in 24 months so funds would be available with an interest payment.

Rep. Ellison asked Mr. Biskin to briefly outline the EPA preventive measures that are currently in effect. Mr. Biskin replied there is a financial responsibility requirement of one million dollars. Also, there are new requirements for the installation and the maintenance of the tanks. Tanks must be protected or made from a material that will not corrode and leak detection equipment is also required. Lines must also be wrapped so there will be no

corrosion and automatic shut-off on the equipment in the event of a leak is required. These are all being phased in over a period of time.

Closing by Sponsor: Rep. Raney stated 24 states have enacted similar legislation. The bill does not cover the cost of any equipment, piping, or tank replacement or removal. This is for the environmental degradation and the third party responsibility due to environmental contamination. This can be considered a conservationist's bill and a small business owner's bill. Rep. Raney stated a significant number of small businesses will close, especially in the rural areas, without this legislation.

DISPOSITION OF HOUSE BILL 603

Motion: None

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: None. Action will be taken in executive session at a later date.

HEARING ON HOUSE BILL 588

Presentation and Opening Statement by Sponsor:

Rep. William Menahan, District 76, stated the bill was an act to revise the fee in lieu of the tax on motorboats. Under the present law, canoes with motors have been taxed excessively. Rep. Menahan stated that on page 4 of the bill, an amendment was needed to exclude jet boats. Rep. Menahan stated there would be a free year for those who had excessive fees last year if they can present their receipt for payment.

Testifying Proponents and Who They Represent:

None.

Proponent Testimony:

None.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

24

DAILY ROLL CALL

TAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date February 14, 1989

NAME	PRESENT	ABSENT	EXCUSED
Harrington, Dan, Chairman	✓		
Ream, Bob, Vice Chairman	✓		
Cohen, Ben	✓		
Driscoll, Jerry	✓		
Elliott, Jim	✓		
Koehnke, Francis	✓		
O'Keefe, Mark	✓		
Raney, Bob	✓		
Schye, Ted	✓		
Stang, Barry	✓		
Ellison, Orval	✓		
Giacometto, Leo	✓		
Gilbert, Bob	✓		
Good, Susan	✓		
Hanson, Marian	✓		
Hoffman, Robert	✓		
Patterson, John	✓		
Rehberg, Dennis	✓		

EXHIBIT 1
DATE 2/14/89
E-89-51
HB 603

Rep. Bob Roney

PETROLEUM MARKETERS ASSOCIATION OF AMERICA

PMAA SURVEY RESULTS:

**THE IMPACT OF FEDERAL UNDERGROUND PETROLEUM
STORAGE TANK REGULATIONS ON THE NATION'S
SERVICE STATION POPULATION**

JANUARY, 1989



1120 VERMONT AVENUE, NW • SUITE 1130 • WASHINGTON, DC 20005 • (202) 331-1198

*Rep. Bob Roney*TABLE 1: 1988 UNDERGROUND TANK SURVEY
EXPECTED STATION CLOSURES,
BY STATE

State	Number of Respondents	Total Stations Expected to Close	%Stations in Population Areas <10,000	%Stations in Population Areas 10,000-49,999	%Stations in Population Areas 50,000+
al	56	467	72.81	19.06	8.14
az	11	14	50.00	14.29	35.71
ca	105	312	33.01	28.53	38.46
co	45	158	60.76	14.56	24.68
fl	56	127	44.09	18.11	37.80
ga	31	243	52.26	27.57	20.16
ia	233	278	82.01	9.35	8.63
id	5	14	50.00	50.00	0.00
il	249	619	70.60	15.83	13.57
in	86	347	62.25	18.16	19.60
ioma ¹	21	52	50.00	9.62	40.38
ks	76	101	79.21	11.88	8.91
mi	126	238	72.69	13.87	13.45
mo	74	208	68.75	15.38	15.87
ms	22	177	72.32	22.60	5.08
mt	27	56	37.50	60.71	1.79
nc	127	839	55.30	30.99	13.71
ne	127	335	78.81	21.19	0.00
nm	20	57	38.60	45.61	15.79
ny	46	124	62.90	15.32	21.77
oh	82	500	*	63.60	*
ok	35	124	63.71	25.81	10.48
pa	95	429	70.63	15.38	13.99
sc	60	331	59.52	25.08	15.41
tn	45	379	65.17	27.18	7.65
ut	11	21	80.95	4.76	14.29
wa	37	84	64.29	10.71	25.00
west ²	23	49	42.86	32.65	24.49
wi	162	273	75.82	14.65	9.52
wv	17	53	54.72	32.08	13.21
wy	18	88	71.59	18.18	10.23
*** Total ***	2128	7097	61.21	24.87	13.91

*Incomplete/Insufficient data; excluded from averages

¹ioma = vt, ri, ma, nh, me²west = ut, id, mt, nv

TABLE 2: 1988 UNDERGROUND TANK SURVEY
NUMBER OF COMMERCIAL TANKS EXPECTED
TO CLOSE, BY STATE

EXHIBIT a
DATE 2/14/89
HB 603
Rep. Bt. Koney

ATE	Number of Respondents	Estimated Commercial Tanks Supplied	Commercial Tanks Expected to Close	% of Commercial Tanks Expected to Close
al	56	1009	683	67.69
az	11	1161	*	*
ca	105	13202	6569	49.76
co	45	729	460	63.10
fl	56	2008	1210	60.26
ga	31	757	368	48.61
ia	233	2399	872	36.35
id	5	145	55	37.93
il	249	*	3749	*
in	86	1905	1131	59.37
oma ¹	21	796	279	35.05
ks	76	655	359	54.81
mi	126	4204	2451	58.30
mo	74	374	237	63.37
ms	22	212	159	75.00
mt	27	600	437	72.83
nc	127	2036	1154	56.68
ne	127	551	*	*
nm	20	176	135	76.70
ny	46	7049	1697	24.07
oh	82	*	1707	*
ok	35	339	252	74.34
pa	95	2713	1278	47.11
sc	60	671	345	51.42
tn	45	676	439	64.94
ut	11	309	178	57.61
wa	37	3251	798	24.55
west ²	23	1925	444	23.06
wi	162	2744	1836	66.91
wv	17	339	149	43.95
wy	18	460	281	61.09
*** Total ***	2128	53395	29750	46.93**

*Incomplete/Insufficient data; excluded from averages

¹ ioma = vt, ri, ma nh, me

² west = ut, id, mt, nv

**Based on complete responses only

DATE 2/14/89HB 603

TABLE 3: 1988 UNDERGROUND TANK SURVEY
MARKETER EXPENDITURES ON
TANK UPGRADES AND REPLACEMENTS
1986-1988 AND PLANNED 1989

Rep. Bill Roney

STATE	Number of Respondents	UST Expenses Last 3 Years	UST Expenses Planned 1989
al	56	3052500	2200000
az	11	560000	400000
ca	105	5340000	5442500
co	45	1472500	1805000
fl	56	3602500	3782500
ga	31	1575000	1695000
ia	233	4650000	4385000
id	5	145000	82500
il	249	6300000	6352500
in	86	4162500	3415000
ioma ¹	21	1512500	1605000
ks	76	1255000	1622500
mi	126	5367500	4775000
mo	74	2457500	1890000
ms	22	795000	800000
mt	27	715000	832500
nc	127	6152500	6707500
ne	127	*	*
nm	20	717500	982500
ny	46	2940000	2477500
oh	82	4530000	4530000
ok	35	1035000	1120000
pa	95	3390000	3445000
sc	60	2042500	2280000
tn	45	2122500	1985000
ut	11	392500	605000
wa	37	885000	1192500
west ²	23	737500	727500
wi	162	4615000	4082500
wv	17	750000	700000
wy	18	827500	1025000
*** Total ***	2128	74100000	72945000

*Incomplete/Insufficient data; excluded from averages

1 ioma=vt,ri,ma,nh,me

2 west=ut,id,mt,nv

TABLE 4: 1988 UNDERGROUND TANK SURVEY
Pollution Liability Insurance
Coverage, by State

DATE 2/14/89HB 603Rep. BA Roney

STATE	Marketers with No Pollution Liability Coverage	Insurance Not Available	Insurance Unaffordable	Other
al	46.67	9.80	54.90	35.29
az	54.55	33.33	66.67	0.00
ca	43.14	47.06	50.98	1.96
co	58.14	28.57	67.86	3.57
fl	37.04	30.00	50.00	20.00
ga	50.00	7.41	44.44	48.15
ia	83.62	34.54	63.40	2.06
id	20.00	0.00	100.00	0.00
il	53.01	29.55	70.45	0.00
in ¹	44.19	36.59	60.98	2.44
ioma	33.33	12.50	25.00	62.50
ks	77.78	36.84	52.63	10.53
mi	21.43	37.93	58.62	3.45
mo	39.73	16.28	81.40	2.33
ms	16.67	15.79	63.16	21.05
mt	48.15	53.85	46.15	0.00
nc	45.31	28.57	62.34	9.09
ne	71.31	*	*	*
nm	60.00	30.77	69.23	0.00
ny	73.91	60.87	32.61	6.52
oh	35.37	*	*	*
ok	75.00	40.00	60.00	0.00
pa	44.21	52.38	42.86	4.76
sc	42.37	10.34	58.62	31.03
tn	51.11	20.00	70.00	10.00
ut	45.45	40.00	60.00	0.00
wa	32.43	50.00	33.33	16.67
west ²	26.09	33.33	50.00	16.67
wi	44.44	40.85	59.15	0.00
wv	41.18	0.00	100.00	0.00
wy	33.33	33.33	66.67	0.00
Average	51.48	32.51	59.60	7.90

*Incomplete/Insufficient data; excluded from averages

¹ ioma = vt, ri, ma, nh, me

² west = ut, id, mt, nv

EXXON

EXHIBIT 5

DATE 2/14/89

HB 603

Rep. Bill Roney

February 14, 1989

STORY DISTRIBUTING CO.

300 EAST GRIFFIN DRIVE - P.O. BOX 1201
BOZEMAN, MONTANA 59715

Mr. Chairman, members of the Committee:

For the record, my name is Doug Alexander and I reside in Bozeman, Mont.

I am a petroleum marketer and would be considered as a small to medium sized distributor. I distribute product to retail stores, farm and commercial accounts and to a cardlock facility.

I am here to ask that you vote for HB602. I am also here to explain to you two of the factors that this bill will help to minimize. Those factors are insurance and the financial responsibility requirement dictated by the federal government. I have included with my testimony, a copy of my 1988 and 1989 pollution insurance bill from Federated Insurance, the only company willing to quote insurance for pollution from underground tanks in the state of Montana. Please note that my premium has increased from \$10,800 as of March 1, 1988 to \$18,100 on March 1, 1989. Please note further that the amount of \$18,100 is for a six month period only, so my actual comparable cost is \$36,200, if there are no increases after the six months renewable period. This amounts to a 235% increase. As you may understand, I plan to cancel this portion of my insurance as of 3/1/89. The cost is too prohibitive and totally unreasonable.

Even if the cost was reasonable, the policy does not meet the federal requirements that have been previously outlined in testimony to you. The deductible is \$25,000 and the limits are \$500,000 for each incident with a \$1,000,000 aggregate limit, exactly half of what is needed.

DATE 2/14/89
HB 603
Rep. B. Roney

I feel that I am representative of most of the petroleum distributors in the State of Montana. I have never had a chargeable underground leak and three of the insured tanks are part of the most modern underground tank installation in the state. In addition to the cost of insurance, the non availability of required insurance as per the federal guidelines, I am also faced with a bank calling the notes on three of my locations that were financed with the condition that I have pollution insurance. I ask for you to vote in favor of HB 602. I would hope that you would find it encouraging that an industry such as our is willing to adopt a plan that is a burden on our business but helps to solve the environmental and social problem that exists with underground tanks.

EFFECTIVE DATE	POLICY NO.	REASON FOR THIS MEMO	AMOUNT
3/01/89	9081848	POLLUTION LIABILITY COVER NEW POLICY PREM.	18,070.00

EXHIBIT

DATE

HB

Rep. B. Roney

MEMO

STORY DISTRIBUTING COMPANY,
A MONTANA CORPORATION
P O BOX 1201
BOZEMAN MT 59715

INSURED'S NAME AND ADDRESS

INFORMATION ONLY
THIS AMOUNT WILL BE INCLUDED
IN YOUR NEXT STATEMENT

YOUR ACCOUNT BILL DAY IS 05.

FEDERATED MUTUAL INSURANCE COMPANY
FEDERATED SERVICE INSURANCE COMPANY
HOME OFFICE OWATONNA MN 55060-2101

FEDERATE
INSURANCE

AN IMPORTANT NOTICE OF PREMIUM AND COVERAGE CHANGES

FEDERATED MOVES TO STRENGTHEN THE FUTURE OF POLLUTION INSURANCE

We are pleased to present you with the renewal of your Pollution Liability Policy. This letter will outline important changes in this coverage. Please review this letter and your policy to understand what these changes will mean to you.

Federated Insurance is a major insurer of petroleum marketers in the United States. The Company currently insures about 8000 marketers, and a substantial number have pollution insurance with Federated.

Affordability and availability of pollution insurance is a major concern for the petroleum marketer. The petroleum industry has noted an escalation in the number and size of pollution losses. EPA regulations have intensified the interest in pollution insurance, and the absence of many other major insurers of petroleum marketer's pollution exposures has added to the availability problem.

PRICING AND COVERAGE CHANGES

In order to respond more rapidly to the changing conditions affecting the pollution insurance marketplace, your pollution liability policy will now be issued with a 6-month policy period.

The limits of your policy are now \$500,000 for each pollution incident with a \$1,000,000 aggregate limit.

Newly acquired locations and/or entities will not receive 30 day automatic coverage. Coverage must be specifically requested on each new location. The location must meet underwriting requirements before it will be added for pollution liability coverage.

Commercial General Liability, Garage Liability and Umbrella coverage will have an additional Pollution Exclusion Endorsement attached. This endorsement will further limit any pollution coverage available under these coverages.

Consigned Product Locations, locations in which your interest is the product only, must now be specifically scheduled for Pollution Liability coverage. To be scheduled, a consigned product location must meet all new location requirements. By billing for product at the time delivered, you may eliminate the need to schedule such locations, as this transfers ownership of the product to the operator (customer).

If you wish to maintain pollution coverage on locations or tanks sold to others, you must schedule them for Pollution Liability coverage.

YOUR ACCOUNT NO. 63 817 1		YOUR MARKETING REPRESENTATIVE FIRST WEST INC		DATE 1/05/88		M 000 05 287 10 15	
EFFECTIVE DATE 3/01/88		POLICY NO. 610679		REASON FOR THIS MEMO POLLUTION LIABILITY COVER		NEW POLICY PREM. 10,890.00	

EXHIBIT 5
 DATE 2/14/89
 HB 603
Reg. Bro Roney

MEMO

INFORMATION ONLY
 THIS AMOUNT WILL BE INCLUDED
 IN YOUR NEXT STATEMENT
 YOUR ACCOUNT BILL DAY IS 05.

STORY DISTRIBUTING COMPANY,
 A MONTANA CORPORATION
 P O BOX 1201
 BOZEMAN MT 59715

FEDERATED MUTUAL INSURANCE COMPANY
 FEDERATED SERVICE INSURANCE COMPANY
 HOME OFFICE: OMAHA, NE 68102-7401
FEDERATED INSURANCE

INSURED'S NAME AND ADDRESS

AN IMPORTANT NOTICE OF PREMIUM AND COVERAGE CHANGES

FEDERATED MOVES TO STRENGTHEN THE FUTURE OF POLLUTION INSURANCE

We are pleased to present you with the renewal of your Pollution Liability Coverage. This letter will outline important changes in this coverage. Please review it and your policy to understand what these changes will mean to you.

Federated Insurance is a major insurer of petroleum marketers in the United States. The company currently insures about 8000 marketers, and a substantial number have pollution insurance with Federated.

Affordability and availability of pollution insurance is a major concern for the petroleum marketer. The petroleum industry has noted an escalation in the number and size of pollution losses. Proposed EPA regulations have intensified the interest in pollution insurance, and the absence of many other major insurers of petroleum marketer's pollution exposures has added to the availability problem.

In keeping with our efforts to maintain the premium for the petroleum marketer's coverage at an affordable level, Federated is implementing refinements in the pricing program. This includes a \$25,000 per incident deductible. Policy limits are \$500,000 for each pollution incident with a \$2,000,000 aggregate limit.

These changes will produce a more equitable pricing structure. It allows the best price to those petroleum marketers who are taking action to control their pollution exposures. We believe these changes are positive steps in keeping pollution insurance affordable and available.

PRICING AND COVERAGE CHANGES

Our new pricing program will impact each insured to a different degree. The impact on your policy will depend on the location, condition and leak detection methods of your facilities.

A \$25,000 deductible will apply to each pollution incident. This new deductible offsets much of the premium increase needed.

YOU MUST CONTINUE TO NOTIFY US OF POLLUTION INCIDENTS. THESE MUST BE REPORTED EVEN THOUGH THE EXPENSES ARE EXPECTED TO BE UNDER \$25,000.

The policy limits of your policy are \$500,000 for each pollution incident with a \$2,000,000 aggregate limit.

(continued on reverse side)

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

EXHIBIT 6
DATE 2/14/89
HB 603
Rep. Bill Roney

STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

Underground Storage Tank Program
(406) 444-5970

Prepared Statement - Larry Mitchell, DHES
HB 603 - Petroleum Release Cleanup Fund
February 14, 1989

The cost of cleaning up releases from underground storage tanks is typically beyond the means of most tank owners.

These high costs of investigation and remediation drove Congress to require that tank owners obtain financial responsibility to pay for cleanups no later than October 1990. Montana must adopt financial responsibility regulations equal to federal minimums. EPA recently promulgated federal rules that allow several methods of providing financial responsibility. Most are not available to the majority of tank owners. One method is through the establishment of a state cleanup fund. HB 603 proposes to establish such a fund.

Other states have found that few options exist for tank owners. As of August 1988, 24 states have established or proposed petroleum cleanup funds through a variety of methods with differing levels of coverage. Federal LUST Trust funds are provided to states to pay for enforcement, investigation, emergency response and corrective action under limited circumstances. However all costs are subject to cost recovery from the responsible party. States often find themselves in the no win situation of spending time and public funds litigating to recover cleanup funds from a tank owner who didn't have the money to conduct the cleanup in the first place.

It has been the department's experience that unless a tank owner is insured for pollution liability or is financially sound enough to self insure, cleanups are rarely conducted beyond the investigation phase if at all. The environment and public health and safety is nearly always compromised in deference to the economic reality of the owner's ability to proceed. The existence of a cleanup fund would provide funds to investigate releases and conduct any remedial action necessary to protect the public and the environment.

It is important to recognize that by all estimates, a large number of tank leaks will be discovered in the next few years. The amnesty provision in this bill will result in very heavy workloads during the first two years of the program. The fund will only remain solvent by virtue of governments inability to

EXHIBIT 6
DATE 2/14/89
HB 603
Rep. Bill Roney

Prepared Statement, Larry Mitchell, DHES
HB 603
Page 2

oversee cleanup plans and process claims. Other state fund programs are still too new or different from that proposed in HB 603 to make workload comparisons possible. Nearly all are suffering from staff shortages needed to administer the program. HB 603 wisely proposes to separate DHES regulatory cleanup oversight from claims payment through the establishment of an independent board for claims processing. These efforts must be adequately staffed and funded in order to manage the program efficiently to the satisfaction of all.

In summary DHES supports the investigation and cleanup of petroleum releases from underground storage tanks. We cannot continue to ignore the problem. It does not go away. There have already been too many losses; of businesses due to financial ruin and of groundwater resources for present and future uses.

prepsthb.603

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

EXHIBIT 1
DATE 2/14/89
HB 603
Rep. Bill Roney

STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

Underground Storage Tank Program
(406) 444-5970

February 14, 1989

Re: Financial Responsibility for USTs - Federal EPA Requirements

Financial Responsibility will be needed for all UST owners by October of 1990. Most UST owners will need to show \$1 million per occurrence and \$1 million annual aggregate.

The EPA allowable mechanisms for financial responsibility as listed in 40 CFR 280.

1. Financial test of self-insurance - Company must show a tangible net worth of at least \$10 million
2. Guarantee - parent company guarantees to pay for cleanup, the parent must meet the financial test of self-insurance
3. Insurance
4. Risk retention group
5. Surety bond - performance bond of required amount of coverage
6. Letter of credit - showing required amount of money is set aside
7. State Fund
8. Trust Fund - set up by owner

The insurance coverage will be extremely hard to get for most of the UST owners within Montana. The tanks which are over 10 years old and do not meet the present EPA design requirements are not being covered. The design requirements are: cathodic protection; spill protection; overfill prevention; and leak detection. Presently only a handful of facilities meet all of these requirements.

Other states throughout the country have also found that insurance is not an option for the majority of the UST owners and therefore have set up state funds to help cover tank cleanup

DATE 2/14/89
HB 603
Rep. B. Roney

costs. The states which presently have state funds in place for corrective action and third-party liability include:

Alabama; Delaware; Florida; Georgia; Illinois; Indiana; Louisiana; Minnesota; Mississippi; New Hampshire; New Jersey; New Mexico; New York; Oregon; South Carolina; South Dakota; Tennessee; Vermont; and Virginia.

States which are proposing state funding mechanisms to aid owners in corrective action and third-party liability include:

California; Colorado; Iowa; Massachusetts; and Wyoming.

Many of the other states are also looking at state funds for financial responsibility because of the difficulty for UST owners to procure other financial responsibility mechanisms.

EXHIBIT 7-2

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

EXT-
DATE 2/4/89
HB 603
Rep. Bot Roney

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
Alabama Groundwater Protection Trust Fund	Establishes a \$10 million fund to provide for the cleanup of LUSTs during a two-year grace period, after which the State will set financial responsibility requirements with an owner/operator responsible for a maximum of \$100,000 for corrective action (CA) and \$300,000 for third-party compensation coverage (with a \$500,000 per occurrence limit). Also provides for an insurance pool for those unable to secure cleanup and/or liability insurance.	1. Motor fuels fee	Yes During the two-year grace period, all CA costs are covered; subsequently, costs will be covered according to the yet-to-be established financial responsibility requirements.	Yes Covers all third party claims over \$300,000 with a per occurrence limit of \$500,000.
California State Underground Tank Insurance Fund [PROPOSED]	Establishes a board of directors that will determine the eligibility requirements and the amounts of coverage for CA and third-party liability. Authorizes the board to act as a reinsurer as well.	1. State appropriations 2. Premiums 3. Interest income on the fund 4. Cost recovery 5. Revenue bonds	Yes To be determined.	Yes To be determined.
Storage Tank Cleanup Fund [PROPOSED]	Owners and operators must file claims for reimbursement of covered costs from the fund.	1. Fees 2. Interest income on the fund 3. State appropriations 4. Cost recovery	Yes Covers costs of CA from \$100,000 to \$1 million per occurrence.	No
Colorado Underground Storage Tank Fund [PROPOSED]	The bill would allow the State insurance commissioner to establish a program to assist owners and operators in complying with the financial responsibility requirements.	1. Registration fees 2. Civil penalties 3. Certification fees 4. Gifts 5. Reimbursements 6. State appropriations 7. Interest income on the fund	To be determined.	To be determined.
Delaware Leaking Underground Petroleum Storage Tank Response Fund	Nonlapsing revolving fund; Covers remedial cleanup costs after a \$2,500 deductible if LUSTs are reported by December 1988. After that date, the trust fund covers cleanup costs up to \$1 million after a \$100,000 deductible. Establishes a \$100,000 environmental liability limit for owners and operators and a \$300,000 limit for third-party claims.	1. Cost recovery from the owner/operator 2. Expenses, costs, and judgments recovered pursuant to the Act 3. Interest income from fund 4. Reimbursements under Federal law 5. Tank registration fees	Yes Remedial costs over \$2,500 for LUSTs reported by 12/88. After that date, \$100,000 to \$1 million per occurrence per facility.	Yes \$300,000 to \$1 million per occurrence per facility.

EXHIBIT 8
 DATE 2/14/89
 HB 603

Rep. Bob Roney

EXHIBIT 7-2 (continued)

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
 COVERING PETROLEUM RELEASES

(as of September 1988)

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
Florida Inland Protection Trust Fund	Set up to allow the Dept. of Natural Resources to respond without delay to incidents of inland petroleum contamination; nonlapsing, revolving fund.	1. Tank registration and renewal fees 2. Excise tax on petroleum products 3. Penalties 4. Loan of five million dollars from the Florida Coastal Protection Trust Fund 5. Cost recovery 6. Interest income from the fund	Yes Funds for State-sponsored CA only.	No
Early Detection Incentive Program (part of the Inland Protection Trust Fund)	Amnesty period set up from 7/1/86 to 10/1/88 during which the State will clean up all reported leaks meeting certain criteria.	See above	Yes No defined limit; reimbursement at "reasonable rates for allowable costs."	No
Petroleum Liability Insurance Program	Provides \$1 million third-party liability insurance and \$1 million restoration insurance to qualified tank owner operators.	1. Tank registration and renewal fees for restoration coverage 2. Excise tax on petroleum products for restoration coverage 3. Premium for third-party liability	No	Yes
Georgia UST Environmental Corrective Action Trust Fund	Dept. of Natural Resources Board establishes criteria for reimbursing tank owner/operators for corrective actions. Tank replacement and retrofit are not eligible costs.	1. Tank fees	Yes Owner/operator pays first \$10,000 and then after cleanup submits eligible CA costs for reimbursement.	No
Illinois Underground Storage Tank Fund	Only available to tank owners/operators who have registered their tanks and paid an annual fee of \$100. Funds are available for cleanup where the owner/operator refuses to comply, cannot be found, or there is an emergency.	1. Annual \$100 fee from UST owners 2. Cost recovery	Yes Covers CA costs from \$100,000 to \$1 million.	No
Indiana Underground Petroleum Storage Tank Trust Fund / Underground Petroleum Storage Tank Excess Liability Fund	The Trust Fund is designed for use by the Dept. of Environmental Management for costs incurred by the State for CA. The Excess Liability Fund may be used by owners and operators for CA costs between \$100,000 and \$1 million. Includes a study for future funding needs and the establishment of a risk retention group.	1. Annual registration fees	Yes Covers CA costs between \$100,000 and \$1 million.	No

EXHIBIT 7-2 (continued)

EXHIBIT 8DATE 2/14/89HB 603

Rep. Bill Roney

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
Comprehensive Petroleum Underground Storage Tank Fund [PROPOSED]	Establishes a "deductible" or minimum financial responsibility requirement for owners and operators of \$20,000 for CA and third-party liability costs. An owner or operator may apply to the State for coverage above the deductible up to \$1 million per occurrence. Also allows an owner or operator to apply for full coverage by the fund under specified conditions. The minimum fund amount is \$5 million.	1. Risk-based premiums 2. Tank fees 3. Cost recovery and penalties 4. Interest income from the fund 5. Gifts, grants (including Federal grants), and appropriations	Yes Upon application to the State, an owner or operator may qualify for either full coverage or meet a \$20,000 "deductible" up to \$1 million per occurrence.	Yes Upon application to the State, an owner or operator may qualify for either full coverage or meet a \$20,000 "deductible" up to \$1 million per occurrence.
Mississippi Environmental Programs Trust Fund / Underground Storage Tank Trust Fund	The fund is set up to defray the cost of the State UST program, including State-initiated CA; also provides matching funds for Federal UST grant money.	1. Registration fees 2. Annual monitoring and maintenance fees	Yes Funds for State-sponsored CA only.	No
Coastal and Inland Surface Oil Clean-up Fund (CISOCF)	Nonlapsing, revolving fund; Fund total is limited to \$4,500,000.	1. License fees 2. Funds loaned from the Ground Water Oil Clean-up Fund 3. Penalties 4. Interest income on funds invested 5. Cost recovery 6. Federal matching funds 7. Borrowing of funds by and between CISOCF	Yes Funds for State-sponsored CA only.	Yes No defined limit on the level of coverage; six month limitation on filing a claim after an occurrence.
Massachusetts Underground Storage Tank Petroleum Cleanup Fund [PROPOSED]	Funds will be provided at the discretion of the State for reimbursement of CA costs over \$5,000 up to \$1 million, including third-party claims. Eligibility is confined to those owners and operators who are in compliance with the State UST regulations.	1. Petroleum fee (suspended when fund balance is over \$30 million; reinstated at a balance of \$10 million) 2. Interest income on the fund	Yes Covers CA costs between \$5,000 and \$1 million.	Yes Covers third-party costs between \$5,000 and \$1 million.
Minnesota Petroleum Tank Release Cleanup Fund	Provides authority to the Pollution Control Agency to take or compel CA. Available to owners and operators who have taken corrective action in response to a release reported on or after 6/4/87. Provides for reimbursement of 75% of eligible CA costs greater than \$10,000 and less than \$100,000. UST owner or operator must be in compliance with all applicable State and Federal laws at the time of the release.	1. Cost recovery from responsible parties 2. Civil penalties 3. Certification fees 4. Gifts, grants other than Federal grants, reimbursements, or appropriations from any source intended to be used for the purposes of the fund 5. Interest income from fund 6. Petroleum tank release cleanup fee (only if the fund balance falls below \$1 million)	Yes Reimbursement for 75% of CA costs greater than \$10,000 and less than \$100,000.	No

EXHIBIT 7-2 (continued)

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
Mississippi Groundwater Protection Trust Fund	A revolving fund for the investigation and assessment of contamination sites, restoration and replacement of potable water supplies, and rehabilitation of contamination sites. The owner or operator is liable for the costs if he or she is not in "substantial compliance" on the date of discharge. When the balance of the fund reaches \$6 million, the funding fee will abate until the balance falls below \$4 million, at which point the fee is reimposed. Establishes a two-year grace period from the date of enactment (July 1, 1988), during which all CA costs are covered under specified conditions.	1. Environmental protection fee on all motor fuel distributor sales and deliveries 2. Interest income on the fund 3. Federal grants 4. Tank regulatory fee 5. Cost recovery from owners not in substantial compliance on the date the release is reported	Yes Reimbursement upon application--no \$1,000,000 limit during the grace period. After the two-year grace period, the State will establish minimum financial responsibility requirements for CA not exceeding \$100,000 per occurrence.	Yes \$1,000,000 per occurrence limit. After the two-year grace period, the State will establish minimum financial responsibility requirements for third-party liability not exceeding \$300,000 per occurrence. (The State will cover claims up to \$700,000).
New Hampshire Oil Discharge and Disposal Cleanup Fund	Provides partial reimbursement to owners and operators of USTs (including home heating fuel tanks) with a capacity equal to or greater than 1,100 gallons and who are in compliance with the regulatory requirements. Reimbursement is provided for CA and third-party liability costs according to the number of facilities owned by the owner or operator. At \$5 million, the fee abates until the fund drops below \$2.5 million. Transfer and transport fee and cleanup fund will lapse on January 1, 1994.	1. Per gallon fee on oil and oil product transfer or transport within or into the state 2. Per barrel license fee	Yes Owners and operators of one facility are responsible for the initial \$5,000 of CA costs; two to nineteen facilities, the initial \$20,000; twenty or more, the initial \$30,000; coverage provided up to \$1 million.	Yes Owners and operators of one facility are responsible for the initial \$5,000 of CA costs; two to nineteen facilities the initial \$20,000; twenty or more the initial \$30,000; coverage up to \$1 million.
New Jersey Spill Compensation Fund	Money available to the NJDEP to pay for cleanups and indemnify its contractors in the event they cannot obtain insurance, indemnification by the DEP expires 1/1/88; also allows preventive measures by the DEP; Nonlapsing, revolving fund.	1. Spill Compensation and Control Tax 2. Penalties 3. Cost recovery 4. Automatic liens against the property of the discharger 5. Interest received on the fund 6. Federal government securities and interest 7. State appropriation	Not for the owner or operator; only DEP initiated actions and reimbursement for third-party cleanups (including municipality cleanup where the DEP has approved the plans).	Yes No limitation on the level of coverage; also indemnification for contractors by the DEP was provided through 1/1/88.

EXHIBIT 7-2 (continued)

EXHIBIT 8DATE 2/14/89STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

HB 603

Rep. Bill Roney

Coverage For

State/Fund Title	Eligibility/Description	Revenue Source	Corrective Action	Third-Party Liability
New Mexico Environmental Impairment Cleanup Fund	Provides reimbursement of 50% of owner/ operator CA costs over \$150,000 up to \$750,000, and reimbursement for 100% of the costs from \$750,000 to \$1 million. The balance of the fund is set to range from \$5 million to \$2 million. Fund covers all State-registered USTs.	1. Gasoline and special fuels surcharge tax 2. Cost recovery	Yes Covers 50% of CA costs from \$150,000 to \$750,000, and 100% of CA costs from \$750,000 to \$1 million.	No
New York Environmental Protection and Spill Compensation Fund	Nonlapsing, revolving fund; claims against the fund have to be filed within three years of the date of discovery of damage and within ten years of the date of the incident which caused the damage. There is no limit on the amount of awards.	1. License fees 2. Surcharge on license fees 3. Penalties 4. Cost recovery 5. Interest received on the fund 6. Reimbursements	Yes Covers State-initiated CA; the discharger and the fund are liable for all cleanup and removal costs and all direct and indirect damages.	Yes No limit on the amount of awards.
Oregon Leaking Underground Storage Tank Cleanup Fund	Provides a source of funds for State-initiated CA; also matching funds for Federal CA under the Solid Waste Disposal Act Amendments of 1980.	1. Cost recovery 2. Penalties, fines, and damages recovered	Yes Funds for State- sponsored CA only.	No
Underground Storage Tank Insurance Fund	Provides the authority to establish a fee-supported fund covering the financial assurance requirements for owners and operators.	1. Annual Financial Responsibility (FR) fee (to be determined) levied on owners and operators	Yes Set according to the FR requirements.	Yes Set according to the FR requirements.
South Carolina State Underground Petroleum Environmental Response Bank Account (SUPERB)	Fund will reimburse owner/operator for cleanup expenditures due to early detection of releases from 12/31/87 to 12/31/89. After this grace period, the fund will reimburse from \$100,000 to \$1 million as long as funds are available.	1. Registration fee on regulated tanks 2. Interest income on the fund	Yes As long as funds are available	No
South Dakota Petroleum Release Compensation Fund	A \$5 million revolving fund created to cover the costs of administering the petroleum release program, to reimburse tank owner/operators for corrective action, and promote research and development efforts concerning cleanups.	1. Tank inspection fee 2. Cost recovery 3. Interest income on the fund 4. Gifts, grants 5. One-time interagency allocation	Yes Covers costs of CA from \$10,000 to \$90,000	No

EXHIBIT 8DATE 2/14/89HB 1003*Rep. Bob Roney*

EXHIBIT 7-2 (continued)

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

State/Fund Title	Eligibility/Description	Revenue Source	Coverage For	
			Corrective Action	Third-Party Liability
messee Petroleum Underground Storage Tank Fund	Nonlapsing, revolving fund with a minimum balance of \$2 million and a maximum balance of \$5 million. After the first year the Act is in effect, the CA coverage will be set at a level between \$50,000 and \$100,000 by the State. Likewise, the third-party liability coverage will be set between \$150,000 and \$300,000 after the first year.	1. Fees 2. Civil penalties and damages 3. Interest income from the fund 4. State appropriations	Yes 100% of CA costs over \$75,000 up to \$1 million per occurrence.	Yes Covers all claims in excess of \$150,000 up to \$1 million per occurrence.
rmont Petroleum Cleanup Fund	The fund provides assistance to uninsured owners and operators in meeting the State financial responsibility requirements. It also provides a source of funds for State-initiated CA in emergencies and other situations where there is no owner or operator found, or he or she cannot or will not take CA. In these cases, the fund allows for cost recovery where appropriate. The fund may be used to cover any cost in setting up a risk retention group that is in excess of "reasonable" contributions by the participants.	1. Licensing fees 2. Interest income from the fund 3. Reimbursement and cost recovery 4. General fund appropriations	Yes Covers CA costs between \$100,000 and \$1 million.	Yes Covers third-party compensation costs between \$300,000 and \$1 million.
Environmental Contingency Fund	Authorizes the Secretary of the VT Agency of Environmental Conservation (AEC) to take CA in cases where "the discharging party is unknown, cannot be contacted, is unwilling to take action or does not take timely action."	1. Permit filing fees 2. Hazardous waste generator tax 3. Cost recovery 4. Federal matching funds	Yes Funds for State-sponsored CA only; level of coverage not defined except for "individual non-emergency situations" where the limit is \$50,000/situation.	No
Risk Retention Pool	Authorizes owners and operators of USIs to set up insurance pools with the Banking and Insurance Commissioner's approval.	1. Contributions from pool members	Determined on a case-by-case basis.	Determined on a case-by-case basis.

EXHIBIT 7-2 (concluded)

EXHIBIT 8DATE 2/14/89HB 603

Rep. Bill Roney

STATE FUND OR OTHER STATE ASSURANCE PROGRAMS
COVERING PETROLEUM RELEASES

(as of September 1988)

Coverage For

State/Fund Title	Eligibility/Description	Revenue Source	Corrective Action	Third-Party Liability
ginia nderground Petroleum Storage ank Fund	The State will adopt financial responsibility requirements for owner and operators of not less than \$100,000 for CA and \$300,000 for third-party liability. The fund also is designed to assist in the administration of the State regulatory program for USTs and provides a source of funds for State-initiated CA and matching funds in accordance with the Water Resources Development Act of 1986 (P.L. 99-662). The fund contains \$5 million for 1988.	1. Expenses, costs, and judgments recovered 2. Federal reimbursements 3. Interest income from fund 4. State appropriation 5. Cost recovery	Yes \$100,000 to \$1 million per facility.	Yes \$300,000 to \$1 million per occurrence.
ming nvironmental Pollution litigation Account [PROPOSED]	The fund provides for prompt State response to UST releases or threats of releases, administrative costs, and reimbursement of responsible persons according to certain requirements. The fund does not allow for reimbursements that exceed the amount of money in the fund. Eligible responsible parties may be reimbursed for all CA costs in excess of \$50,000 and third-party liability costs in excess of \$100,000.	1. Penalties and judgments 2. Reimbursements 3. Registration fees 4. Cost recovery	Yes Provides reimbursement of CA costs in excess of \$50,000 for eligible responsible persons.	Yes Provides reimbursement of third-party liability costs in excess of \$100,000 for eligible responsible persons.

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

EXHIBIT _____

DATE 2/14/89

HB 603

Rep. Bob Roney



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

Underground Storage Tank Program
(406) 444-5970

February 13, 1989

HB 603 - Proposed DHES Position Paper

Montana Petroleum Marketers Association bill to establish a state fund for reimbursement of expenses related to petroleum cleanup.

Following is a position which the Department of Health and Environmental Sciences (DHES) Underground Storage Tank (UST) Program proposes concerning the bill entitled: "An act providing for reimbursement to owners and operators for expenses related to releases for petroleum storage tanks; establishing a petroleum storage tank cleanup fee to be paid by gasoline distributors; creating a petroleum tank release cleanup special revenue fund and providing for statutory appropriation of the fund; creating a petroleum tank release compensation board; amending section 17-7-502, MCA; and providing an effective date."

HB 603 proposes to establish a state cleanup fund for leaking petroleum tanks. It would provide public funds for the cleanup of petroleum releases to the environment and help to minimize the possibility of fire and explosion due to petroleum vapors and reduce contamination of groundwater. The revenue would come from a 3/4 cent fee on each gallon of gasoline sold in Montana. This should generate approximately 3.3 million dollars annually. Under the two year amnesty program designed into the bill, petroleum releases will be reported early and contamination impacts should be minimized, provided the fund can stay solvent, which it will not, and DHES and the board can handle the workload. After the two year amnesty period, owners will be responsible for the first \$25,000 in costs.

State and federal law currently holds tank owners responsible for corrective action due to petroleum leaks from storage facilities. Federal EPA financial responsibility rules will require UST owners to be able to show financial assurance to pay up to \$500,000 or \$1,000,000 (depending on type of facility) in environmental and third party damage costs by a final October 1990 deadline (some facilities have an earlier deadline). The existence of a state cleanup fund to provide this assurance is a federally acceptable method. This bill proposes to establish such a fund.

HB 603
Proposed DHES Position Paper
Page 2

EXHIBIT 9
DATE 2/14/89
HB 603
Rep. Bot Roney

It has been the experience of DHES that cleanups or investigations of damage do not occur unless the owner has the financial ability to pay for them. Few owners have the HB 603 independent means or the pollution insurance to cover these costs. The existence of this fund would provide dollars to conduct this work. So would private insurance but it is reportedly unavailable to many UST owners or is prohibitively expensive with high deductibles.

This legislation would help the small business owner/operator because these businesses may never be able to procure financial responsibility from insurance companies. The cost of the insurance may be out of range to the small operator with aging tanks and the fund may be a way to assure that these types of facilities can comply with the Federal EPA financial responsibility requirements.

Under this bill, the tank owner/operator will not have to pay any of the cleanup costs if the release is reported within the first two years of the program. Reimbursement of corrective action costs is not available to some tank owners and is not available to any tank owner if tank management and operation was not in compliance with all applicable state and federal requirements. During the two year amnesty program the owner/operator does not pay any of the cleanup costs associated with the release. This will obviously result in non-reporting of petroleum releases until the legislation becomes effective. But for the two year amnesty program time frame, DHES expects to be overwhelmed with leak reports and claims for cost reimbursement.

DHES has no firm estimate of what the administrative costs associated with this program will be. The legislature must allow for adequate staffing for DHES to carry out its responsibilities. Although an appointed board will pay the claims and is authorized to hire staff, write rules and reimburse DHES costs, DHES staff is required to provide support to the Petro Board. Review and approval of corrective action plans, cleanup levels, review of claims and making recommendations to the board will require considerable DHES resources.

State cleanup fund programs where a state fund assumes the owner's financial responsibility for leak cleanups exist or are proposed to one degree or another in 24 states. State fund programs elsewhere are either dissimilar or too new to compare administrative costs directly. Florida has a temporary amnesty program and a staff of 80 FTE's to administer it. Minnesota has a very new plan where the state pays 75% of the costs over \$10,000. Mississippi has a state cleanup fund most similar to

HB 603
Proposed DHES Position Paper
Page 3

EXHIBIT 9
DATE 2/14/89
HB 603

Rep. Bill Roney

that proposed in HB 603. That state has 25,000 tanks at 10,000 locations (Montana has 18,000 tanks at 9,000 locations). UST program administration in Mississippi is paid with \$500,000 in HB 603 tank fee revenue and provides for 24 FTEs; 15 are currently on staff. Mississippi officials estimate that 30 FTEs are needed and that up to 80% of their staff time is devoted solely to implementation of the state cleanup fund program to the neglect of other prevention and regulatory duties. Montana's program currently has 3 FTE's working on owner initiated corrective action and leak responses.

In summary, DHES supports the investigation and cleanup of petroleum releases from underground storage tanks and owner responsibility for compliance with tank management rules.

Without funding for cleanups; (1) bankruptcies occur, (2) cleanups are not accomplished, (3) tax payer funds are used to clean up serious emergency leaks or (4) DHES resources are wasted in litigation trying to obtain compliance.

If pollution liability insurance were available or affordable there would be no need for a state fund. It is not universally available. Federal EPA rules require \$500,000 to \$1,000,000 financial responsibility that is not realistically available. DHES must be provided sufficient funding to implement the program or no one will be satisfied with it. Workload and fund expenditure estimates will be highest during the two year amnesty program. A minimum of 15 FTEs including one attorney, one accountant and two clerical and an administrative budget of \$500,000 to administer this \$3,300,000 annual program should be anticipated.

VISITORS' REGISTER

HOUSE TAXATION

COMMITTEE

BILL NO. HB 603

DATE February 14, 1989

SPONSOR Rep. Bob Raney

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Ronna Alexander	Boz. Mt. Pet. Marketers	X	
R M Gornstead	Bigs Mt. & M Pet	X	
L. G. LUND	Kalispell, MT - Valcon	X	
Janell Fallon	Helena	amend	
Larry Broadwint	Helena	X	
Peter Johnson	ATOM	amend	
Don Ingers	Mt Chamber of Commerce	Monitor	
John Augustin	Ceneca Denver Co	X	
Steve Visoian	Montana Petroleum Marketers	X	
Pat McCutcheon	Helena	X	
Larry Mitchell	DHES	amend	
12th National	MT COUNCIL OF KOOPS	✓	
Don Helms Jr	BILLINGS	X	
Doug Alexander	Bozeman, MT	X	
Alan D. Reed	Bozeman Ind	X	
Harold Wallis	Helena, MT	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Harrington, on February 15, 1989, at 9:00 a.m.

ROLL CALL

Members Present: 17

Members Excused: 1

Members Absent: None

Staff Present: Dave Bohyer, Legislative Council

Announcements/Discussion: None.

HEARING ON HOUSE BILL 564

Presentation and Opening Statement by Sponsor:

Rep. Lloyd McCormick, House District 64, stated his bill is a tax refund for the elderly. He said the people who live in low income housing pay rent the same as those in federal government subsidized housing. The rental is based on the tenant's income. Rep. McCormick stated those who live in state low income housing are entitled to the same refund as those in federal government housing.

Testifying Proponents and Who They Represent:

Greg Grepher, At the request of Rep. McCormick
Virginia Jellison, Low Income Coalition Lobbyist

Proponent Testimony:

Greg Grepher stated this was an income tax and a property tax problem together. Subsidized housing districts financed by government bonds are exempt from property tax. Mr. Grepher said that under the elderly homeowner credit refund plan, people applied for the credit, sending in their applications, and a refund would be paid with no confirmation as to whether or not they were in subsidized housing. As a result, there were people in tax exempt housing that still received the elderly homeowner credit refund while others did not. This legislation is to provide low income people in tax exempt housing with eligibility for the property tax refund. The legislative intent was to provide property tax relief but payment in lieu of tax was

tax trust fund.

Rep. Hanson disagreed. She stated bond issues are tax increases and people vote for them.

Rep. Ellison stated he would like this to go to the people for their decision. He said his district is very conservative but he did not think they would vote for this constitutional amendment.

The DO PASS motion failed by a roll call vote of 10 to 8. Rep. Cohen, who was excused, left his no vote on this bill. Rep. Raney moved to reverse the vote. The motion was CARRIED by a unanimous voice vote resulting in a DO NOT PASS on SB 117.

DISPOSITION OF HOUSE BILL 494 HEARD ON FEBRUARY 9:

MOTION: DO PASS by Rep. Raney.

DISCUSSION: Rep. Gilbert stated this was bad tax policy. He objected to taxing a small minority of the citizens. He stated this bill puts the tax burden on the distributors and could create cash flow problems for them.

Rep. Raney stated he thought it was excellent tax policy. He said tobacco is a habit forming drug that causes terrible cancers. Other drug usage carries jail penalties. This bill will help to control use of this drug and at least, use the tax money for health and research purposes.

Rep. Elliott stated he was a life long tobacco user and this bill would directly affect him but he still supports the bill.

Rep. Giacometto stated if this was a bad drug, then it should be outlawed. He said it should not be condoned and then taxed.

Rep. Patterson stated the money from this tax will not solve the education funding problem.

The motion DO PASS failed by a roll call vote of 10 to 7. Rep. Stang made the motion to TABLE the bill. The motion TO TABLE was carried by a 11 to 6 roll call vote.

DISPOSITION OF HOUSE BILL 603 HEARD ON FEBRUARY 14:

MOTION: DO PASS by Rep. Raney.

DISCUSSION: Rep. Gilbert expressed concern with the cities and towns passing their own law to supercede the law in HB 603. He suggested an amendment to this effect.

Rep. Raney stated he did not see this as a problem since he doubted very much if the cities and towns would do this since they would be receiving environmental cleanup under this program.

Rep. Gilbert asked Rep. O'Keefe if he thought the cities and

towns would enact more stringent legislation. Rep. O'Keefe replied he did not and he concurred with Rep. Raney's statements.

Rep. Raney stated the cities and towns could pass more stringent control over placement of tanks but the tank removal and hazardous release provisions mirror the EPA regulations. Rep. Raney stated he did not think the towns and cities would consider themselves more knowledgeable in this area than the EPA.

Rep. Gilbert then suggested that the bill be passed with the current language and then reviewed in two years.

Rep. Raney stated that there will no doubt be problems since this is major legislation but the loss of many small service stations and distributors to the state would be very bad economically.

Rep. Patterson asked about page 10, section 3 regarding exemptions which did not include the State of Montana. He still thought the state should be exempt under the bill.

Rep. Raney replied the state buys their gasoline from distributors and he did not see any reason for an exemption in their case.

Rep. Good stated she thought the bill was going to create unfunded liability. Rep. Raney replied that was true and possibly, in the next legislature, the monetary amount may have to be increased, but the alternative is to do nothing. Rep. Good asked why the fund cannot be funded adequately in the beginning.

Rep. Stang spoke in favor of the bill stating there may be unfunded liability, but he did not see any point in increasing the tax before knowing if that step will be necessary.

Rep. Driscoll asked Rep. Raney what he thought the cost would be for each site where there is a release. Rep. Raney responded approximately \$20,000.00 to \$30,000.00 on the average. Rep. Driscoll then asked how much the state would pay of this amount. Rep. Raney replied the fund does not begin to operate until there is a hazardous release and there is a \$25,000.00 deductible. Rep. Raney stated there is a two year amnesty period which will be costly since there will be no deductible for the owner/operator and the state will pay for all of the hazardous release. Rep. Driscoll stated he did not think the 3.3 million dollars designated for this program would be needed. Rep. Raney stated that is why the 3/4 cent tax was agreed upon since it is believed this will be sufficient to cover the first two costly years, however, there may be many more releases that are unknown at the present time.

Rep. Gilbert stated this was a good bill and the funding will have legislative review every two years.

Rep. Raney stated the committee may not want to have the free amnesty period. This could be changed.

Rep. Elliott stated he was concerned that this would be directly passed on to the consumers. He asked what was the responsibility of the service station owner/operator who is making the profit from this. Rep. Raney replied the station owner/operator does not pay the tax; the distributors pay the tax. This is a protection fee for the small business since the large businesses are self-insured. He stated the tax will probably be passed on to the consumer but the benefit to the consumer will be the clean environment and the many small service stations will not have to close.

The motion to DO PASS was CARRIED by a voice vote of 16 to 1.
Rep. Good voted no.

DISPOSITION OF HOUSE BILL 268 HEARD ON JANUARY 27:

DISCUSSION: Rep. Elliott chaired the subcommittee on HB 268. He presented proposed amendments to the bill. (Exhibit 2). Rep. Elliott stated he and Rep. Rehberg concurred with the 5% penalty, and they raised the interest based on the prime rate according to New York banks.

Rep. Ellison stated he disliked the 5% penalty.

Rep. Elliott stated the intent of the penalty was to prevent people from paying their taxes late whether it is one day or a month. He stated the interest would be compounded annually.

Rep. Driscoll asked Rep. Elliott if the subcommittee had looked at the prime interest rate plus 5 or 6% interest and then no penalty. Why was this omitted? Rep. Elliott replied he disliked the idea of no penalty since it would allow people to go on being late. Rep. Driscoll stated if the prime rate was 10.5 plus 5% in the bill, the taxpayers would be paying 16% interest.

Rep. Rehberg stated that the subcommittee had disagreed and this was Rep. Elliott's suggestion. He stated he disagreed for the same reasons Rep. Driscoll had pointed out. He said he wanted to put this on a strict prime plus a percentage and do away with the penalty because it is an excessive burden for those people who miss the tax deadline by one or two days.

Rep. Raney suggested a thirty day grace period and then assess the penalty.

Rep. Ream urged the subcommittee to try to come to some agreement on the bill. Rep. Raney stated there would have to be a new subcommittee since they could not agree.

Chairman Harrington suggested holding the bill until a later date when all the amendments are ready for discussion. The committee concurred.

12/24
12.23
12

STANDING COMMITTEE REPORT

February 27, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that HOUSE
BILL 603 (first reading copy -- white) do pass.

Signed: 
Dan Harrington, Chairman

DAILY ROLL CALL

TAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date February 15, 1989

NAME	PRESENT	ABSENT	EXCUSED
Harrington, Dan, Chairman	✓		
Ream, Bob, Vice Chairman	✓		
Cohen, Ben			✓
Driscoll, Jerry	✓		
Elliott, Jim	✓		
Koehnke, Francis	✓		
O'Keefe, Mark	✓		
Raney, Bob	✓		
Schye, Ted	✓		
Stang, Barry	✓		
Ellison, Orval	✓		
Giacometto, Leo	✓		
Gilbert, Bob	✓		
Good, Susan	✓		
Hanson, Marian	✓		
Hoffman, Robert	✓		
Patterson, John	✓		
Rehberg, Dennis	✓		

SENATE TAXATION COMMITTEE
FINAL STATUS REPORT
51ST LEGISLATURE

- HB 567 (Harrington) Local revision of percentage of tax on remodeled buildings
In 3-6, Heard 3-31, Considered 4-5, BE CONCURRED IN AS AMENDED 4-5
- HB 588 (Menahan) Revise the fee in lieu of tax on boats and include other motorized vessels
In 3-31, Heard 4-4, BE CONCURRED IN 4-4
- HB 590 (Schye) Repealing miscellaneous local government license taxes
In 3-6, Heard 3-30, BE CONCURRED IN 3-30
- HB 600 (Vincent) Establishing a business licensing center, authorizing master licenses
In 3-27, Referred to Business and Industry 4-4
- HB 603 (Raney) Leaking petroleum tank cleanup fee, fund, and compensation board
In 3-5, Heard 3-16, Considered 3-29, BE CONCURRED IN AS AMENDED 3-29, Out of comm. 3-30
- HB 607 (Hannah) Revise election of small business corporation status for tax purposes
In 3-7, Heard 3-31, BE CONCURRED IN 3-31
- HB 641 (Quilici) Local tax exemption for industrial parks
In 3-31, Heard 4-6, Considered 4-10, 4-12, BE CONCURRED IN AS AMENDED 4-12
- HB 642 (Strizich) Revise dangerous drug tax collection act
In 2-28, Heard 3-16, Considered 3-17, BE CONCURRED IN 3-17
- HB 664 (Schye) Impose alternative minimum tax on Montana Individual Income at 8.25% rate
In 3-31, Heard 4-6, Considered 4-10, BE CONCURRED IN AS AMENDED 4-10, Out of committee, 4-11, Rereferred to committee 4-12.
- HB 685 (Daily) Historic rehabilitation tax abatement program
In 2-28, Heard 3-16, Considered 3-17, BE CONCURRED IN 3-17

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Tom Hager, Vice Chairman, on
March 16, 1989, at 8:00 a.m.

ROLL CALL

Members Present: Senator Hager, Senator Norman, Senator
Eck, Senator Bishop, Senator Halligan, Senator Walker,
Senator Harp, Senator Gage, Senator Severson, Senator
Mazurek, Senator Crippen

Members Excused: Senator Brown

Members Absent: None

Staff Present: Jill Rohyans, Committee Secretary
Jeff Martin, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 642

Presentation and Opening Statement by Sponsor:

Representative Strizich, District 41, sponsor, said the bill was introduced to establish a minimum tax and collection procedures for the Dangerous Drug Tax Act of the 1987 session. The passage of the Act has resulted in almost \$5 million in assessments. However, the collections totalled only \$45,000. The bill makes several changes in the Act which will make it more effective:

1. It allows the Department of Revenue to proceed with the tax assessment and collection without regard to criminal prosecution.
2. It suspends a tax lien during any period of incarceration of the person being taxed.
3. It sets a minimum tax on small quantities of drugs as set forth in the criminal code.
4. It redistributes funds to provide an increase in the funds returned to the Department of Justice for use in enforcement activities.

Closing by Sponsor:

Representative Daily closed by saying this bill only applies to local taxes and provides a bit of help and incentive to local people and communities to rehabilitate and improve historic buildings in their areas. He urged the committee to approve the bill.

HEARING ON HOUSE BILL 603

Presentation and Opening Statement by Sponsor:

Representative Raney, District 82, sponsor, said the Environmental Protection Agency has been passing a lot of rules and regulations which have the effect of law, especially concerning leaking underground storage tanks, hazardous waste disposal, and solid waste management. HB603 addresses leaking underground storage tanks. In Montana there a lot of privately owned gas stations and distributorships. The new guidelines from EPA are so burdensome that is difficult for the smaller operations to remain in business. The guidelines require \$1 million worth of insurance and clean-up of any leak at any underground petroleum tank site. This bill will assist those small businesses by creating the Petroleum Storage Tank Release Clean-up Plan. The Governor has proposed some amendments which will be explained later in testimony by Steve Visocan.

Representative Raney said the plan is to have discovered all the leaking tanks in the next two year period. There will undoubtedly be a significant number of leaks found in tanks in Montana. The tank owner, when he discovers a leak, will notify the Department of Health and Environmental Sciences, and then prepare a plan for the clean up. That plan will be forwarded to the Department which will then approve the plan and advise the local government of the approval. The owner then proceeds with the clean up maintaining documentation of expenses and procedure which he submits to the Petroleum Tank Release Compensation Board for reimbursement. The Board reviews the claim and determines the eligible expenses for reimbursement. The owner then replaces the tanks and the lines. The fund is intended to assist him and insure him on the environmental release. The cost of the tank and the lines are the responsibility of the owner.

(60)

The funding comes from a 3/4 cent a gallon fee assessed on distributors of gasoline. The fund will accumulate until it reaches \$8 million. The fee then drops off and will not be reinstated until the fund drops below \$4 million. It is anticipated the majority of the work will be done in the first two to three years and that after that period the fund will reach the \$8 million and not drop significantly thereafter.

List of Testifying Proponents and What Group they Represent:

Steve Visocan, President, Montana Petroleum Marketing Association
Rona Alexander, Executive Director, Petroleum Marketing Association (a six state group)
Pat McCutcheon, Insurance Agent, Helena
Dan Stockton, President, Stockton Oil
Ted Neuman, Montana Council of Cooperatives
Norris Nichols, Administrator, Motor Fuels Tax
Larry Mitchell, Department of Health and Environmental Sciences
Division, Department of Revenue
Chris Kaufman, Montana Environmental Information Center
Janelle Fallon, Executive Director, Montana Petroleum Association

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Steve Visocan, President, Montana Petroleum Marketing Association, said he only wished to highlight some points in the bill. He said the owner will be entitled to reimbursement only if the leak is identified after the effective date of this bill. If the tank is an underground tank, it must have been properly registered. The release (leak) must have been accidental, and except for the release, the tank must have been managed in a proper and prudent manner and in accordance with all state and federal laws. Tanks located at a refinery, or oil and gas production facility, tanks owned by a railroad, tanks belonging to the federal government, farm and residential tanks smaller than 1100 gallons, and tanks owned or operated by a person convicted of serious offense regarding the management of tanks are all excluded from the bill.

Costs eligible for reimbursement are the reasonable costs associated with the clean up and the compensation of third parties for bodily injury and property damage.

Costs not eligible are the costs of replacing the tanks and the lines, legal costs, or any costs incurred before the effective date of the bill.

The EPA has specified three ways to meet the financial requirements in their guidelines. One of the methods is to establish a state fund such as already exist in 24 other states. Another alternative is to carry insurance at the \$1 million dollar level. Currently, no one in Montana writes insurance at that level and if it were to become available, it would be out of reach for the small businessman. The third alternative is to be self insured. In order to be self insured, you must have \$10 million of net worth.

The fee is assessed only on gasoline because the state currently does not have a method for reporting diesel purchases or sales.

The EPA requirements only apply to underground tanks, however, the bill covers both above and below ground tanks because the potential for leaks exists with both.

Mr. Visocan passed out a sheet which explains the proposed amendments to the bill (Exhibit #3). He also passed out the proposed amendments (Exhibit #3a). Exhibit #4 explains the revisions to the fiscal note. The amendments remove the two year amnesty period and increase the fee from 3/4 cent to 1 cent per gallon for the first two years. It then decreases to 3/4 cent per gallon. The amendments include clean up language re the future payments for eligible costs if the fund has insufficient money and expansion of the Board's rule making authority to include the review and approval of corrective action plans.

Rona Alexander, Executive Director, Petroleum Marketing Association, presented her testimony in support of the bill (Exhibits #5 and #5a). She also gave the committee members copies of a survey regarding expected station closures by state (Exhibit #6).

Pat McCutcheon, Insurance Agent, Helena, spoke about the difficulty of finding insurance coverage to meet the EPA \$1 million requirement. Surety bonds and self insuring are both very difficult and very expensive.

102

Affordability is almost impossible, availability is almost non-existent. The one policy that is available is extremely expensive and require stringent tests on an ongoing basis.

Dan Stockton, President, Stockton Oil Company, presented his testimony in support of the bill (Exhibit #7). He pointed out both Wyoming and South Dakota have enacted similar legislation.

Ted Neuman, Montana Council of Cooperatives, said the small rural operator could not afford insurance coverage even if it were available. He urged the committee to seriously consider adopting the legislation.

Norris Nichols, Administrator, Motor Fuels Tax Division, Department of Revenue, presented clean up language amendments regarding the collection of the fees (Exhibit #8). He said he had a question about the language on page 17, line 21, regarding notification of when to implement the tax and when to stop it.

Larry Mitchell, Department of Health and Environmental Sciences, presented his testimony in support of the bill (Exhibit #9). He said with the amendments the Governor's Office is satisfied with the bill and funding and the solvency of the fund. He said the checks and balances are well written into the bill.

Chris Kaufman, Montana Environmental Information Center, said this is an environmentally sound bill. The potential for leaks is great in Montana and the passing on of the cost of the fund to the consumer is appropriate for the protection they are offered under this bill.

Janelle Fallon, Executive Director, Montana Petroleum Association, presented proposed amendments and her testimony in support of the bill (Exhibit #10). She pointed out amendment #5 should change the effective date to effective on passage and approval.

Questions From Committee Members:

Senator Mazurek asked who has above ground tanks.

Janelle Fallon responded there is not the concern about above ground tanks. Her feeling is that owners of above ground tanks should clean up after themselves until the EPA adopts rules for them which are being drawn up currently.

Senator Mazurek asked if diesel tanks are covered.

Mr. Visocan replied diesel tanks are covered, however, the fee is not collected on diesel fuel sales.

Senator Norman asked if it would take a 3/5 vote of the legislature and a constitutional vote since the gas tax will not be used for highway construction.

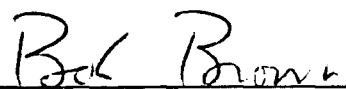
Mr. Visocan answered this was questioned at one time and after research the Legislative Council said it would not due to the language in the bill that says the purpose and intent for which it is being collected deems it a fee being paid by the distributors, not a tax on the consumer.

Closing By Sponsor:

Representative Raney closed by saying he sponsored the bill because he was interested in the health and environmental issues and also because it helps the small operators stay in business. He said he preferred the bill as it passed the House as it offers the small operators more protection than they have under the Governor's amendments. He also said he preferred to have the above ground tank provisions left in the bill.

ADJOURNMENT

Adjournment At: 10:00 a.m.



SENATOR BOB BROWN, Chairman

BB/jdr

MIN316a.jdr

ROLL CALLTAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989Date 3/16/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN			X
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

SENATE TAXATION

EXHIBIT NO. 3

DATE 3/16/89

BILL NO. HB 603

PURPOSE OF PROPOSED AMENDMENTS TO HB603

Remove the two year amnesty period and \$25,000 deductible after 2 years.

Require that tank owners/operators share in the first \$35,000 of expenses.

Increase the petroleum storage tank cleanup fee from 3/4 of a cent per gallon to one cent per gallon for the first two years.

"Clean-up" text involving future payment for eligible costs if the fund has insufficient money at the time a claim is approved.

Expand the Board's rulemaking authority to include the review and approval of corrective action plans.

Amendments to House Bill No. 603
Third Reading Copy

For the Senate Committee on Taxation

Requested by Rep. Raney
March 16, 1989

1. Page 2.
Following: line 3
Insert: "(c) providing procedures for the review and approval of
corrective action plans;"
2. Page 2, line 4.
Strike: "(c)"
Insert: "(d)"
3. Page 2, line 8.
Strike: "(d)"
Insert: "(e)"
4. Page 9, lines 15 and 16.
Strike: ":" on line 15 through "(a)" on line 16
5. Page 9, lines 17 and 18.
Following: "act]" on line 17
Strike: "and" on line 17 through "1991" on line 18
6. Page 9, lines 19 through 25.
Strike: "all" on line 19 through "release" on line 25
Insert: "50% of the first \$35,000 of eligible costs and for 100%
of subsequent eligible costs up to a maximum total
reimbursement of \$982,500"
7. Page 10, line 1.
Following: "money"
Insert: "to pay approved claims for eligible costs"
8. Page 10, line 3.
Following: "reimbursement"
Insert: "for the costs at that time"
Following: "."
Strike: "If and when"
Insert: "When"
9. Page 17, line 12.
Strike: "equal to 0.75 cent"

10. Page 17, line 15.

Following: "distributor."

Insert: "The fee must equal:

(a) 1 cent for each gallon of gasoline distributed
from July 1, 1989 through June 30, 1991; and

(b) 0.75 cent for each gallon of gasoline distributed
after July 1, 1991."

11. Page 20.

Following: line 10

Insert: "(c) providing procedures for the review and approval of
corrective action plans;"

12. Page 20, line 11.

Strike: "(c)"

Insert: "(d)"

13. Page 20, line 15.

Strike: "(d)"

Insert: "(e)"

SENATE TAXATION

EXHIBIT NO. 4

DATE 3/16/89

BILL NO. HB 603

REVISIONS TO FISCAL NOTE FOR HB603

ASSUMPTIONS:

1. The Underground Storage Tank data base shows 18,000 underground storage tanks at 9,000 facilities, or an average of 2 underground storage tanks per site.
2. Approximately 4,000 underground storage tanks are required by EPA to be leak tested by December, 1991.
3. If a 14% leak rate is assumed at 2,000 sites (4,000 tanks), then 280 investigations/cleanups will be initiated over the biennium or 140 per year.
4. EPA has estimated that 85% of the cleanups will cost less than \$36,000. This would be 119 sites.
5. We estimate that cleanup at 60 sites will cost \$18,000 each, cleanup at another 60 sites will cost \$35,000 each, and cleanup at the other 20 sites will cost \$85,000 each.
6. If the owners/operators pay 50% of the first \$35,000 of eligible costs, the total outlay to owners/operators for cleanup in year one and two will be \$2,940,000 each year.
7. According to the Department of Revenue, Gasoline sales in Montana were 437MM gals in 1987 and 443MM gals in 1988. Assuming sales of 440MM gals in the next two years, a fee of one cent per gallon will bring in \$4,400,000 per year.
8. This excess of revenue over pay out would leave \$360,000 for expenses associated with operating the program and a \$1,100,000 cushion to cover potential higher payouts associated with third party liability and higher cleanup costs.

EXXON

SENATE TAXATION

EXHIBIT NO. 5

DATE

3/16/89

BILL NO.

HB 603

STORY DISTRIBUTING CO.300 EAST GRIFFIN DRIVE - P.O. BOX 1201
BOZEMAN, MONTANA 59715*Testimony
House Bill 603*BEST COPY
AVAILABLE

Mr. Chairman, members of the Committee:

For the record, my name is Doug Alexander and I reside in Bozeman, Mont.

I am a petroleum marketer and would be considered as a small to medium sized distributor. I distribute product to retail stores, farm and commercial accounts and to a cardlock facility.

I am here to ask that you vote for HB602. I am also here to explain to you two of the factors that this bill will help to minimize. Those factors are insurance and the financial responsibility requirement dictated by the federal government. I have included with my testimony, a copy of my 1988 and 1989 pollution insurance bill from Federated Insurance, the only company willing to quote insurance for pollution from underground tanks in the state of Montana. Please note that my premium has increased from \$10,800 as of March 1, 1988 to \$18,100 on March 1, 1989. Please note further that the amount of \$18,100 is for a six month period only, so my actual comparable cost is \$36,200, if there are no increases after the six months renewable period. This amounts to a 235% increase. As you may understand, I plan to cancel this portion of my insurance.

The cost is too prohibitive and totally unreasonable.

Even if the cost was reasonable, the policy does not meet the federal requirements that have been previously outlined in testimony to you. The deductible is \$25,000 and the limits are \$500,000 for each incident with a \$1,000,000 aggregate limit, exactly half of what is needed.

SENATE TAXATION

EXHIBIT NO. 5 p2DATE 3/16/89BILL NO. HB 602

I feel that I am representative of most of the petroleum distributors in the State of Montana. I have never had a chargeable underground leak and three of the insured tanks are part of the most modern underground tank installation in the state. In addition to the cost of insurance, the non availability of required insurance as per the federal guidelines, I am also faced with a bank calling the notes on three of my locations that were financed with the condition that I have pollution insurance. I ask for you to vote in favor of HB 602. I would hope that you would find it encouraging that an industry such as our is willing to adopt a plan that is a burden on our business but helps to solve the environmental and social problem that exists with underground tanks.

BEST COPY
AVAILABLE

YOUR ACCOUNT NO. 63 817 1		YOUR MARKETING REPRESENTATIVE FIRST WEST INC		8-515	DATE 1/15/88	SENATE TAXATION EXHIBIT NO. 9	35 287 15
EFFECTIVE DATE 3/01/88	POLICY NO. 610579	REASON FOR THIS MEMO POLLUTION LIABILITY COVER			NEW POLICY PREM. BILL NO. 45 603	DATE 3/16/88	

STORY DISTRIBUTING COMPANY,
A MONTANA CORPORATION
P O BOX 1201
BOZEMAN MT 59715

INSURED'S NAME AND ADDRESS

AN IMPORTANT NOTICE OF PREMIUM AND COVERAGE CHANGES

FEDERATED MOVES TO STRENGTHEN THE FUTURE OF POLLUTION INSURANCE

We are pleased to present you with the renewal of your Pollution Liability Coverage. This letter will outline important changes in this coverage. Please review it and your policy to understand what these changes will mean to you.

Federated Insurance is a major insurer of petroleum marketers in the United States. The company currently insures about 8000 marketers, and a substantial number have pollution insurance with Federated.

Affordability and availability of pollution insurance is a major concern for the petroleum marketer. The petroleum industry has noted an escalation in the number and size of pollution losses. Proposed EPA regulations have intensified the interest in pollution insurance, and the absence of many other major insurers of petroleum marketer's pollution exposures has added to the availability problem.

In keeping with our efforts to maintain the premium for the petroleum marketer's coverage at an affordable level, Federated is implementing refinements in the pricing program. This includes a \$25,000 per incident deductible. Policy limits are \$500,000 for each pollution incident with a \$2,000,000 aggregate limit.

These changes will produce a more equitable pricing structure. It allows the best price to those petroleum marketers who are taking action to control their pollution exposures. We believe these changes are positive steps in keeping pollution insurance affordable and available.

PRICING AND COVERAGE CHANGES

Our new pricing program will impact each insured to a different degree. The impact on your policy will depend on the location, condition and leak detection methods of your facilities.

A \$25,000 deductible will apply to each pollution incident. This new deductible offsets much of the premium increase needed.

YOU MUST CONTINUE TO NOTIFY US OF POLLUTION INCIDENTS. THESE MUST BE REPORTED EVEN THOUGH THE EXPENSES ARE EXPECTED TO BE UNDER \$25,000.

The policy limits of your policy are \$500,000 for each pollution incident with a \$2,000,000 aggregate limit.

(continued on reverse side)

FEDERATED MUTUAL INSURANCE COMPANY
FEDERATED SERVICE INSURANCE COMPANY
HOME OFFICE: OMAHA, NE 68102
FEDERAL INSURANCE

EFFECTIVE DATE	POLICY NO.	REASON FOR THIS MEMO
3/01/89	9081848	POLLUTION LIABILITY

EXHIBIT NO. 5
DATE 3/16/89
BILL NO. 48603

STORY DISTRIBUTING COMPANY,
A MONTANA CORPORATION
P O BOX 1201
BOZEMAN MT 59715

MEMO

INFORMATION ONLY
THIS AMOUNT WILL BE INCLUDED
IN YOUR NEXT STATEMENT
YOUR ACCOUNT BILL DAY IS 05.

FEDERATED MUTUAL INSURANCE COMPANY
FEDERATED SERVICE INSURANCE COMPANY



HOME OFFICE: UMATOMIA, MT 55060-2401

AN IMPORTANT NOTICE OF PREMIUM AND COVERAGE CHANGES

FEDERATED MOVES TO STRENGTHEN THE FUTURE OF POLLUTION INSURANCE

We are pleased to present you with the renewal of your Pollution Liability Policy. This letter will outline important changes in this coverage. Please review this letter and your policy to understand what these changes will mean to you.

Federated Insurance is a major insurer of petroleum marketers in the United States. The Company currently insures about 8000 marketers, and a substantial number have pollution insurance with Federated.

Affordability and availability of pollution insurance is a major concern for the petroleum marketer. The petroleum industry has noted an escalation in the number and size of pollution losses. EPA regulations have intensified the interest in pollution insurance, and the absence of many other major insurers of petroleum marketer's pollution exposures has added to the availability problem.

PRICING AND COVERAGE CHANGES

In order to respond more rapidly to the changing conditions affecting the pollution insurance marketplace, your pollution liability policy will now be issued with a 6-month policy period.

The limits of your policy are now \$500,000 for each pollution incident with a \$1,000,000 aggregate limit.

Newly acquired locations and/or entities will not receive 30 day automatic coverage. Coverage must be specifically requested on each new location. The location must meet underwriting requirements before it will be added for pollution liability coverage.

Commercial General Liability, Garage Liability and Umbrella coverage will have an additional Pollution Exclusion Endorsement attached. This endorsement will further limit any pollution coverage available under these coverages.

Consigned Product Locations, locations in which your interest is the product only, must now be specifically scheduled for Pollution Liability coverage. To be scheduled, a consigned product location must meet all new location requirements. By billing for product at the time delivered, you may eliminate the need to schedule such locations, as this transfers ownership of the product to the operator (customer).

If you wish to maintain pollution coverage on locations or tanks sold to others, you must schedule them for Pollution Liability coverage.

73

SUPPLEMENTAL SCHEDULE FOR THE DECLARATIONS

Pollution Liability Coverage Part

EXHIBIT NO. 5DATE 3/14/89BILL NO. HB 603

Site No.	Address of Site	Description of Site	Petroleum Products Loc Underground Tank	
			# of Tanks	Cor (See
1	300 GRIFFIN DRIVE BOZEMAN MT GALLATIN COUNTY	BULK PLANT	3 2	2 4
2	625-627 E PEACH ST BOZEMAN MT	BULK PLANT/WHSE	1	1
3	228 S WALLACE ST BOZEMAN MT	OFFICE/STORAGE		
4	1420 N 7TH ST BOZEMAN MT	SERVICE STATION	3	1
5	1211 E MAIN ST BOZEMAN MT	RESTAURANT/SERVICE STATION	3	2
6	SW CORNER OF HWY 191-84 FOUR CORNERS 7 MILES W OF BOZEMAN MT	CONVENIENCE STORE	3	1
7	HWY 191 HUNTLEY BLDG BIG SKY MT BOZEMAN COUNTY	SERVICE STATION	3	4
8	1104 N ROUSE (AT KEYON NOBLE READYMIX)	COMMERCIAL	3	1
9	1801 SOUTH TRACEY BOZEMAN MT	SERVICE STATION & CONV STORE	3	4

BEST COPY
AVAILABLECONSTRUCTION KEY: 1 = Unprotected Steel
4 = STI-P32 = Steel Lined
5 = Double Walled Steel3 = Fiberglass
6 = Tanks in Vault

HB 603 Donna Alexander

PETROLEUM TANK RELEASE CLEAN UP FUND

My testimony is to furnish you with statistics on the impact of these financial responsibility requirements and the relation to the current status of tanks in Montana.

Our Association which consists of six states, belongs to a National Assoc., Petroleum Marketers of America which represents approximately 11,000 independent businessmen. These petroleum marketers are very diversified in their operations and account for nearly 55% of the gasoline sold in the United States. In addition to their wholesale operations, they own nearly 19,000 convenience stores. To assess the impact of these regulations, PMAA distributed a survey in November of 88' which measured several things:

1. The number of stations owned that were likely to close.
2. The location of the stations.
3. The number commercial tanks likely to close.(explain)
4. The amount of money spent in the last year on the replacement and upgrading of tanks, and what is anticipated being spent in 89'.
5. The insurance coverage marketers currently have.

Touching briefly on the national level, over 2100 distributors in 35 states responded to the survey, and their answer to the first question was that over half, or some 27,000 gas stations owned, nationwide, will close. Keep in mind there is also a large segment of stations that owned by individual retailers or single station owners, and the impact on this group will be even more devastating.

The tables are very interesting and perhaps of greater significance than the sheer number of stations closing is the location of these stations. Let's look directly at the responses from Montana.

Table 1

Table 2

Table 3

Table 4- Federated Insurance is the only company we're aware of that has written pollution liability coverage in Montana. Out of the whole petroleum population in the state they have only 84 policies written, and none of these meet the EPA requirements.

In information gathered by the Dept. of Health & Environmental Sciences, they report aprox. 18,000 USTs in their data base, of which aprox. 11,000 fall under the EPA regulations, as tanks of 1100 gallons or less are exempted. The average facility in Mt. has two tanks, the average size is 5000 gallons, the average age is 14.5 years.

44 leaks were reported last year

Further information from the Dept. concerning leaks themselves, show that ~~the underground storage tank staff worked on over 60 leak projects during 88'. Of those, 44 occurred that year. Others are continuing projects from past years.~~ Since July of 88' the Dept. has received notices of 106 tanks that have already been closed and none of those reported a serious leak, although, all had some degree of contamination. Of those tanks that were closed only maybe 25% were replaced.

~~We don't have any concrete figures for what the average leak costs. EPA has released an average cost figure of \$56,000. If we were to use that figure the 44 leaks that occurred last would have cost \$2,464,000. I believe the average is lower for Montana and Larry Mitchell with the Dept may be able to address those questions. Also, if there are questions dealing with the cost of tanks, and installation there is a person in the audience who is in that business, Mr. Larry Boadwater of Broadwater Ent.~~

TABLE 1: 1988 UNDERGROUND TANK SURVEILL NO. H.B. 603
EXPECTED STATION CLOSURES,
BY STATE

State	Number of Respondents	Total Stations Expected to Close	%Stations in Population Areas <10,000	%Stations in Population Areas 10,000-49,999	%Stations Population Areas 50,000
al	56	467	72.81	19.06	8.
az	11	14	50.00	14.29	35.
ca	105	312	33.01	28.53	38.
co	45	158	60.76	14.56	24.
fl	56	127	44.09	18.11	37.
ga	31	243	52.26	27.57	20.
ia	233	278	82.01	9.35	8.
id	5	14	50.00	50.00	0.
il	249	619	70.60	15.83	13.
in	86	347	62.25	18.16	19.
ioma ¹	21	52	50.00	9.62	40.
ks	76	101	79.21	11.88	8.
mi	126	238	72.69	13.87	13.
mo	74	208	68.75	15.38	15.
ms	22	177	72.32	22.60	5.
mt	27	56	37.50	60.71	1.
nc	127	839	55.30	30.99	13.
ne	127	335	78.81	21.19	0.
nm	20	57	38.60	45.61	15.
ny	46	124	62.90	15.32	21.
oh	82	500	*	63.60	*
ok	35	124	63.71	25.81	10.
pa	95	429	70.63	15.38	13.
sc	60	331	59.52	25.08	15.
tn	45	379	65.17	27.18	7.
ut	11	21	80.95	4.76	14.
wa	37	84	64.29	10.71	25.
west ²	23	49	42.86	32.65	24.
wi	162	273	75.82	14.65	9.
wv	17	53	54.72	32.08	13.
wy	18	88	71.59	18.18	10.
*** Total ***	2128	7097	61.21	24.87	13.

*Incomplete/Insufficient data; excluded from averages

¹ioma = vt, ri, ma, nh, me

²west = ut, id, mt, nv

56
x 2
102

TABLE 2: 1988 UNDERGROUND TANK SURVEY
NUMBER OF COMMERCIAL TANKS EXPECTED
TO CLOSE, BY STATE

SENATE TAXATION

EXHIBIT NO. 6 p 2

DATE 3/16/89

BILL NO. HB 663

STATE	Number of Respondents	Estimated Commercial Tanks Supplied	Commercial Tanks Expected to Close	% of Commercial Tanks Expected to Close
al	56	1009	683	67.69
az	11	1161	*	*
ca	105	13202	6569	49.76
co	45	729	460	63.10
fl	56	2008	1210	60.26
ga	31	757	368	48.61
ia	233	2399	872	36.35
id	5	145	55	37.93
il	249	*	3749	*
in	86	1905	1131	59.37
ioma ¹	21	796	279	35.05
ks	76	655	359	54.81
mi	126	4204	2451	58.30
mo	74	374	237	63.37
ms	22	212	159	75.00
mt	27	600	437	72.83
nc	127	2036	1154	56.68
ne	127	551	*	*
nm	20	176	135	76.70
ny	46	7049	1697	24.07
oh	82	*	1707	*
ok	35	339	252	74.34
pa	95	2713	1278	47.11
sc	60	671	345	51.42
tn	45	676	439	64.94
ut	11	309	178	57.61
wa	37	3251	798	24.55
west ²	23	1925	444	23.06
wi	162	2744	1836	66.91
wv	17	339	149	43.95
wy	18	460	281	61.09
*** Total ***	2128	53395	29750	46.93**

*Incomplete/Insufficient data; excluded from averages

¹ioma = vt, ri, ma nh, me

²west = ut, id, mt, nv

**Based on complete responses only

77

TABLE 3: 1988 UNDERGROUND TANK SURVEY DATE 3/16/89
MARKETER EXPENDITURES ON
TANK UPGRADES AND REPLACEMENTS
1986-1988 AND PLANNED 1989

STATE	Number of Respondents	UST Expenses Last 3 Years	UST Expenses Planned 1989
al	56	3052500	2200000
az	11	560000	400000
ca	105	5340000	5442500
co	45	1472500	1805000
fl	56	3602500	3782500
ga	31	1575000	1695000
ia	233	4650000	4385000
id	5	145000	82500
il	249	6300000	6352500
in	86	4162500	3415000
ioma ¹	21	1512500	1605000
ks	76	1255000	1622500
mi	126	5367500	4775000
mo	74	2457500	1890000
ms	22	795000	800000
mt	27	715000	832500
nc	127	6152500	6707500
ne	127	*	*
nm	20	717500	982500
ny	46	2940000	2477500
oh	82	4530000	4530000
ok	35	1035000	1120000
pa	95	3390000	3445000
sc	60	2042500	2280000
tn	45	2122500	1985000
ut	11	392500	605000
wa	37	885000	1192500
west ²	23	737500	727500
wi	162	4615000	4082500
wv	17	750000	700000
wy	18	827500	1025000
*** Total ***	2128	74100000	72945000

*Incomplete/Insufficient data; excluded from averages
lioma=vt,ri,ma,nh,me
2west=ut,id,mt,nv

TABLE 4: 1988 UNDERGROUND TANK SURVEY
Pollution Liability Insurance
Coverage, by State

EXHIBIT NO. 6 p 24
DATE 3/16/89
BILL NO. HB 603

STATE	2Marketers with No Pollution Liability Coverage	Insurance Not Available	Insurance Unaffordable	Other
al	46.67	9.80	54.90	35.29
az	54.55	33.33	66.67	0.00
ca	43.14	47.06	50.98	1.96
co	58.14	28.57	67.86	3.57
fl	37.04	30.00	50.00	20.00
ga	50.00	7.41	44.44	48.15
ia	83.62	34.54	63.40	2.06
id	20.00	0.00	100.00	0.00
il	53.01	29.55	70.45	0.00
in ¹	44.19	36.59	60.98	2.44
ioma	33.33	12.50	25.00	62.50
ks	77.78	36.84	52.63	10.53
mi	21.43	37.93	58.62	3.45
mo	39.73	16.28	81.40	2.33
ms	16.67	15.79	63.16	21.05
mt	48.15	53.85	46.15	0.00
nc	45.31	28.57	62.34	9.09
ne	71.31	*	*	*
nm	60.00	30.77	69.23	0.00
ny	73.91	60.87	32.61	6.52
oh	35.37	*	*	*
ok	75.00	40.00	60.00	0.00
pa	44.21	52.38	42.86	4.76
sc	42.37	10.34	58.62	31.03
tn	51.11	20.00	70.00	10.00
ut	45.45	40.00	60.00	0.00
wa ²	32.43	50.00	33.33	16.67
west	26.09	33.33	50.00	16.67
wi	44.44	40.85	59.15	0.00
wv	41.18	0.00	100.00	0.00
wy	33.33	33.33	66.67	0.00
Average	51.48	32.51	59.60	7.90

*Incomplete/Insufficient data; excluded from averages

¹ioma = vt, ri, ma, nh, me

²west = ut, id, mt, nv

(This sheet to be used by those testifying on a bill.)

NAME: DAN STOCKTON JR. DATE: 3/16/89

ADDRESS: 1607 4TH AVE N - Billings

PHONE: 406-245-6376

REPRESENTING WHOM? MONTANA PETROLEUM MARKERS & STOCKTON CO

APPEARING ON WHICH PROPOSAL: H.B. 603

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: See Exhibit #7

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE TAXATION

EXHIBIT NO. 7

DATE 3/16/89

BILL NO. HB 603

Wholesale Petroleum Distributor

(406) 245-6376
P.O. BOX 1756 - 1607 4th AVE. N.
BILLINGS, MONTANA 59103

STOCKTON
OIL
COMPANY

March 16, 1989

SENATE TAXATION COMMITTEE
Sanator Bob Brown, Chairman

Testimony RE: House Bill #603-An act providing for the cleanup
of polution caused by leaking petroleum storage
tanks.

My name is Dan Stockton Jr., I am president of Stockton Oil Company
in Billings. Our company was founded by my father Dan Stockton Sr.
in the 1940's. We currently supply petroleum products throughout
Montana, east of the Continental Divide, to all classes of buyers.

I am addressing the insurance issue regarding polution coverage
for storage tanks including their lines. From its founding, our
company has been insurance conscious and responsible, we have
historacally had in excess of one million dollars polution coverage.
Through 1985 our petroleum related insurance package and umbrellas
included polution coverage. Starting in 1986, our insurance company,
Federated Insurance, who has covered approximately 70% of the insured
petroleum marketers in this region, started writing polution coverage
under a separate policy. Our insurance policy covers twenty locations
and fifty-five underground tanks. Many of these locations are on
property owned by other parties. The following is a brief history
of the last four years polution insurance:

<u>YEAR</u>	<u>COVERAGE</u>	<u>DEDUCTABLE</u>	<u>COST PER 12 MTHS</u>
1986	One Million Dollars	\$1,000	\$11,000
1987	One Million Dollars	\$10,000	\$11,000
1988	One Million Dollars	\$25,000	\$27,000
1989 (1st 6 mths)	Half Million Dollars	\$25,000	\$48,000
1989 (2nd 6 mths)	Half Million Dollars	\$25,000	\$96,000

Total Claims (1)

In December of 1988 the U.S. Environmental Protection Agency under-
ground storage tank regulations became a law. The law states that
our company must maintain one million dollars of polution liability
insurance or prove a financial net worth of ten million dollars. On
February 1, 1989, my insurance aniversary date, Federated lowered
their maximum coverage to \$500,000, doubled their rates for six
months, and redoubled their rates for the next six months. This

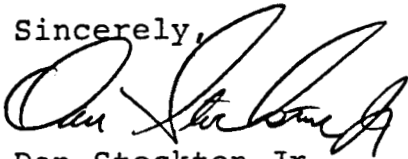
Page 2

eliminated any possibility of our conforming to the law. Stockton Oil Company was forced to drop their pollution liability insurance, for the first time in over forty years, in order to maintain solvency. Even if we could afford to pay \$8,000 per month for this coverage, we still would not meet federal regulations.

We have no knowledge of any insurance company writing the required insurance in Montana. This leaves our company, our associates and our environment at great risk.

These are just a few reasons House Bill #603 will provide fair uniform protection satisfying all affected parties. I ask you to please support this bill.

Sincerely,



Dan Stockton Jr.
President

DS/ljk

AMENDMENT TO HOUSE BILL NO. 603

1. Title, line 16.

Following: "FUND;"

Insert: "PROVIDING FOR THE ADMINISTRATION AND COLLECTION OF THE FEE;"

1. Page 17, line 10.

Following: "fee"

Insert: "--administration of the tax--penalty, interest, warrant for distraint, and statute of limitations"

2. Page 18, line 1.

Strike: "7"

Insert: "30"

3. Page 18.

Following: line 6

Insert: "(5) The department of revenue shall collect the fee in the same manner as the basic gasoline license tax under Title 15, chapter 70, part 2. The provisions of 15-70-103, 15-70-111, 15-70-202, 15-70-205, 15-70-206, 15-70-208, 15-70-209, 15-70-210, 15-70-211, 15-70-212, 15-70-221(2), and 15-70-232 shall apply to the fee. The provisions of 15-70-203, 15-70-204, 15-70-207, 15-70-221(1), 15-70-222, 15-70-223, and 15-70-224 shall not apply to the fee."

amhb603

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

SENATE TAXATION

EXHIBIT NO. 9 p.1

DATE 3/16/89

FILE NO. HB 603



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

Underground Storage Tank Program
(406) 444-5970

Prepared Statement - Larry Mitchell, DHES
HB 603 - Petroleum Release Cleanup Fund
February 14, 1989

The cost of cleaning up releases from underground storage tanks is typically beyond the means of most tank owners.

These high costs of investigation and remediation drove Congress to require that tank owners obtain financial responsibility to pay for cleanups no later than October 1990. Montana must adopt financial responsibility regulations equal to federal minimums. EPA recently promulgated federal rules that allow several methods of providing financial responsibility. Most are not available to the majority of tank owners. One method is through the establishment of a state cleanup fund. HB 603 proposes to establish such a fund.

Other states have found that few options exist for tank owners. As of August 1988, 24 states have established or proposed petroleum cleanup funds through a variety of methods with differing levels of coverage. Federal LUST Trust funds are provided to states to pay for enforcement, investigation, emergency response and corrective action under limited circumstances. However all costs are subject to cost recovery from the responsible party. States often find themselves in the no win situation of spending time and public funds litigating to recover cleanup funds from a tank owner who didn't have the money to conduct the cleanup in the first place.

It has been the department's experience that unless a tank owner is insured for pollution liability or is financially sound enough to self insure, cleanups are rarely conducted beyond the investigation phase if at all. The environment and public health and safety is nearly always compromised in deference to the economic reality of the owner's ability to proceed. The existence of a cleanup fund would provide funds to investigate releases and conduct any remedial action necessary to protect the public and the environment.

It is important to recognize that by all estimates, a large number of tank leaks will be discovered in the next few years. The amnesty provision in this bill will result in very heavy workloads during the first two years of the program. The fund will only remain solvent by virtue of governments inability to

Prepared Statement, Larry Mitchell, DHES
HB 603
Page 2

oversee cleanup plans and process claims. Other state fund programs are still too new or different from that proposed in HB 603 to make workload comparisons possible. Nearly all are suffering from staff shortages needed to administer the program. HB 603 wisely proposes to separate DHES regulatory cleanup oversight from claims payment through the establishment of an independent board for claims processing. These efforts must be adequately staffed and funded in order to manage the program efficiently to the satisfaction of all.

In summary DHES supports the investigation and cleanup of petroleum releases from underground storage tanks. We cannot continue to ignore the problem. It does not go away. There have already been too many losses; of businesses due to financial ruin and of groundwater resources for present and future uses.

prepsthb.603

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

SENATE TAXATION
EXHIBIT NO. 9 P. 3
DATE 3/16/89
BILL NO. HB 613



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

Underground Storage Tank Program
(406) 444-5970

February 14, 1989

Re: Financial Responsibility for USTs - Federal EPA Requirements

Financial Responsibility will be needed for all UST owners by October of 1990. Most UST owners will need to show \$1 million per occurrence and \$1 million annual aggregate.

The EPA allowable mechanisms for financial responsibility as listed in 40 CFR 280.

1. Financial test of self-insurance - Company must show a tangible net worth of at least \$10 million
2. Guarantee - parent company guarantees to pay for cleanup, the parent must meet the financial test of self-insurance
3. Insurance
4. Risk retention group
5. Surety bond - performance bond of required amount of coverage
6. Letter of credit - showing required amount of money is set aside
7. State Fund
8. Trust Fund - set up by owner

The insurance coverage will be extremely hard to get for most of the UST owners within Montana. The tanks which are over 10 years old and do not meet the present EPA design requirements are not being covered. The design requirements are: cathodic protection; spill protection; overfill prevention; and leak detection. Presently only a handful of facilities meet all of these requirements.

Other states throughout the country have also found that insurance is not an option for the majority of the UST owners and therefore have set up state funds to help cover tank cleanup

SENATE JOURNAL

EXHIBIT NO. 9 P.4

DATE 3/16/89

BILL NO. HR 613

costs. The states which presently have state funds in place for corrective action and third-party liability include:

Alabama; Delaware; Florida; Georgia; Illinois; Indiana; Louisiana; Minnesota; Mississippi; New Hampshire; New Jersey; New Mexico; New York; Oregon; South Carolina; South Dakota; Tennessee; Vermont; and Virginia.

States which are proposing state funding mechanisms to aid owners in corrective action and third-party liability include:

California; Colorado; Iowa; Massachusetts; and Wyoming.

Many of the other states are also looking at state funds for financial responsibility because of the difficulty for UST owners to procure other financial responsibility mechanisms.

Amendments to HB 603
March 16, 1989

1. Page 3, line 18
delete "solely"
2. Page 3, line 19
amend to read "support a program to pay for corrective
action and PAYMENTS TO THIRD PARTIES FOR damages
3. Page 7, delete lines 8-9 in their entirety
4. Amend all references to "petroleum storage tanks" to
"UNDERGROUND petroleum storage tanks," beginning in the
title.
5. Page 9, delete lines 16-20 in their entirety
6. Page 9, line 23
delete \$25,000
add \$50,000

Proposed by the Montana Petroleum Association

SENATE TAXATION

EXHIBIT NO. 10 p. 2

DATE 3/16/89

BILL NO. HB 603

Reasons for amendments:

1. On page 16, administrative costs are listed as a use of the fund.
2. Payments to third parties are provided for on page 8.
3. and 4. Delete above ground storage tanks.

Performance and industry standards are very different for ASTs and USTs. Even including only those ASTs under 30,000 gallons greatly expands the scope of the program.

Federal UST programs deal only with USTs, including federal financial responsibility and corrective action regulations. It is wasteful to use fund money to remedy AST leaks rather than reserving the fund to correct costly, difficult UST leaks.

AST leaks are more easily detected and responsible parties more easily identified with less investigation of the extent of contamination. Cleanup is fairly straightforward compared to USTs.

EPA recognizes the significant difference between ASTs and USTs. EPA and the American Petroleum Institute are both working on AST regulations. Until ASTs must meet such requirements, it is not fair to UST owners that AST owners have the same access to the fund. The same insurance problems of USTs do not exist for ASTs.

5. Delete amnesty provisions

Amnesty makes enormous demands on the fund and requires responsible operators to subsidize those with problems.

6. Payment by the responsible party of the first \$50,000 would be in line with several other states and federal recommendations. It would also make the fund go further.

8.

3/16/89

Taxation

VISITORS' REGISTER

[illegible]

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Bob Brown, on March 28, 1989, at
9:00 a.m.

ROLL CALL

Members Present: Senator Brown, Senator Hager, Senator
Norman, Senator Eck, Senator Bishop, Senator Halligan,
Senator Walker, Senator Harp, Senator Gage, Senator
Severson, Senator Mazurek, Senator Crippen (Senator
Crippen arrived late in the meeting)

Members Excused: None

Members Absent: None

Staff Present: Jill Rohyans, Committee Secretary
Jeff Martin, Legislative Council

Announcements/Discussion: None

DISPOSITION OF HOUSE BILL 564

Discussion:

Senator Walker said he had checked to make sure that both
the elderly in private housing developments as well as
those residing in a housing authority/public housing
are covered under the provisions of this bill. He
assured the committee members that they are all covered
by the residential property tax credit.

Amendments and Votes:

Senator Halligan moved to amend the title and the bill with
an effective date for tax years beginning after
December 31, 1989. The motion CARRIED unanimously.

Recommendation and Vote:

Senator Walker moved HB 564 Be Concurred In As Amended. The
motion CARRIED unanimously. Senator Walker will carry
the bill on the floor.

DISPOSITION OF HOUSE BILL 444

Amendments and Votes:

Senator Gage said the bill needs to be amended to indicate the tax year to which the check-off applies.

Senator Eck moved to include a retroactive applicability date for tax years beginning after December 31, 1988. The motion CARRIED unanimously.

Recommendation and Vote:

Senator Eck moved House Bill 444 Be Concurred In As Amended. The motion CARRIED with Senator Hager voting no. Senator Hager will carry the bill on the floor.

DISPOSITION OF HOUSE BILL 603

Discussion:

Senator Mazurek expressed concern that the risks of exposure and exorbitant costs are so high that the fund definitely needs to be established as the Governor proposes. The worst risks should be the first to be addressed. He felt the provisions cannot be so broad that the fund is depleted right away.

Senator Eck felt that adding the above ground tank owners to the fund will allow them to obtain insurance coverage which they are presently unable to get. The risk and potential costs for the above ground tanks is very low and would not pose a great threat to the fund.

Amendments and Votes:

Senator Mazurek moved amendment #4 as per the attached Exhibit #1. The motion FAILED on a roll call vote (Exhibit #2).

The committee members discussed the provisions on page 15, lines 7-17, which deal with the approval of the clean-up plan and funds by the Board and subsequent loaning of funds by the bank. Concern was expressed by Senator Gage that the language is too ambiguous and open-ended.

92

Senator Norman felt the owner should come in with his plan, the Board approves the plan , and the bank loans the money on the basis of the Board approval. If it is later determined that there is more extensive work to be done which will require further financing from the bank, the owner should then have to have his plan amended by the Board before the bank loans more money. That will give the Board the control through the whole process, rather than only at the first submission of the plan as the bill is presently written.

Senator Harp and Senator Halligan will work on an amendment to address the problem on page 15, lines 7-17, to be presented on the floor of the Senate.

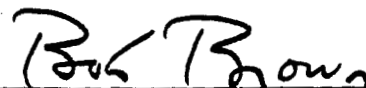
Senator Mazurek moved to adopt all the amendments requested by Representative Raney (Exhibit #2). The motion CARRIED with Senators Harp and Halligan voting no.

Recommendation and Vote:

Senator Harp moved HB 603 Be Concurred In As Amended. The motion CARRIED unanimously.

ADJOURNMENT

Adjournment At: 10:00 a.m.



SENATOR BOB BROWN, Chairman

BB/JDR

MIN328.jdr

ROLL CALL

TAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3/28/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X late		X
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	Y		
SENATOR MAZUREK	X		
SENATOR NORMAN	Y		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

page 1 of 2
March 29, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 603 (third reading copy -- blue), respectfully report that HB 603 be amended and as so amended be concurred in:

Sponsor: Raney (Harp)

1. Title, line 14.

Following: "DISTRIBUTORS"

Insert: "AND COLLECTED BY THE DEPARTMENT OF REVENUE"

2. Page 2.

Following: line 3

Insert: "(c) provide procedures for the review and approval of corrective action plans;"

Renumber: subsequent subsections

3. Page 9, line 15.

Strike: ":"

Insert: ","

4. Page 9, line 16.

Strike: "(a)"

5. Page 9, lines 17 and 18.

Following: "act]" on line 17

Strike: "and" on line 17 through "1991" on line 18

6. Page 9, lines 19 through 25.

Strike: "all" on line 19 through "release" on line 25

Insert: "50% of the first \$35,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of \$982,500"

7. Page 10, line 1.

Following: "money"

Insert: "to pay approved claims for eligible costs"

8. Page 10, line 3.

Following: "reimbursement"

Insert: "for the costs at that time"

Following: "."

Strike: "If and when"

Insert: "When"

9. Page 15, lines 10 through 14.

Strike: "However" on line 10 through "." on line 14

10. Page 17, line 10.

Following: "fee"

Insert: "-- collection -- penalties -- warrant for distraint --
statute of limitations"

11. Page 17, line 12.

Strike: "equal to 0.75 cent"

12. Page 17, line 15.

Following: "distributor."

Insert: "The fee must equal:

(a) 1 cent for each gallon of gasoline distributed from
July 1, 1989, through June 30, 1991; and

(b) 0.75 cent for each gallon of gasoline distributed
after July 1, 1991."

13. Page 18, line 1.

Strike: "7"

Insert: "30".

14. Page 18.

Following: line 6

Insert: "(5) The department of revenue shall collect the fee in
the same manner as the basic gasoline license tax under Title
15, chapter 70, part 2. The provisions of 15-70-103, 15-70-
111, 15-70-202, 15-70-205, 15-70-206, 15-70-208 through 15-
70-212, 15-70-221(2), and 15-70-232 apply to the fee. The
provisions of 15-70-203, 15-70-204, 15-70-207, 15-70-221(1),
and 15-70-222 through 15-70-224 do not apply to the fee."

15. Page 20.

Following: line 10

Insert: "(c) procedures for the review and approval of corrective
action plans;"

Renumber: subsequent subsections

AND AS AMENDED BE CONCURRED IN

Signed: _____

Bob Brown

Bob Brown, Chairman

*W.C. 1/8/94
3:30 PM
9:11 AM*

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date 3/28/89 House Bill No. 603 Time 9:32

NAME	YES	NO
SENATOR BROWN	X	
SENATOR BISHOP		X
SENATOR CRIPPEN		X
SENATOR ECK		X
SENATOR GAGE	X	
SENATOR HAGER	X	
SENATOR HALLIGAN		X
SENATOR HARP		X
SENATOR MAZUREK	X	
SENATOR NORMAN		X
SENATOR SEVERSON		X
SENATOR WALKER		X

Gill Robyans
Secretary

SENATOR BOB BROWN
Chairman

Motion: by Senator Mazurek to amend
HR 603 as per amendment #4
an attached Exhibit #1.
Failed

Amendments to HB 603
March 16, 1989

1. Page 3, line 18
delete "solely"
2. Page 3, line 19
amend to read "support a program to pay for corrective
action and PAYMENTS TO THIRD PARTIES FOR damages
3. Page 7, delete lines 8-9 in their entirety
4. Amend all references to "petroleum storage tanks" to
"UNDERGROUND petroleum storage tanks," beginning in the
title.
5. Page 9, delete lines 16-20 in their entirety
6. Page 9, line 23
delete \$25,000
add \$50,000

Proposed by the Montana Petroleum Association

Reasons for amendments:

1. On page 16, administrative costs are listed as a use of the fund.
2. Payments to third parties are provided for on page 8.
3. and 4. Delete above ground storage tanks.

Performance and industry standards are very different for ASTs and USTs. Even including only those ASTs under 30,000 gallons greatly expands the scope of the program.

Federal UST programs deal only with USTs, including federal financial responsibility and corrective action regulations. It is wasteful to use fund money to remedy AST leaks rather than reserving the fund to correct costly, difficult UST leaks.

AST leaks are more easily detected and responsible parties more easily identified with less investigation of the extent of contamination. Cleanup is fairly straightforward compared to USTs.

EPA recognizes the significant difference between ASTs and USTs. EPA and the American Petroleum Institute are both working on AST regulations. Until ASTs must meet such requirements, it is not fair to UST owners that AST owners have the same access to the fund. The same insurance problems of USTs do not exist for ASTs.

5. Delete amnesty provisions

Amnesty makes enormous demands on the fund and requires responsible operators to subsidize those with problems.

6. Payment by the responsible party of the first \$50,000 would be in line with several other states and federal recommendations. It would also make the fund go further.

Amendments to House Bill No. 603
Third Reading Copy

For the Senate Committee on Taxation

Requested by Rep. Raney
March 16, 1989

1. Page 2.

Following: line 3

Insert: "(c) providing procedures for the review and approval of
corrective action plans;"

2. Page 2, line 4.

Strike: "(c)"

Insert: "(d)"

3. Page 2, line 8.

Strike: "(d)"

Insert: "(e)"

4. Page 9, lines 15 and 16.

Strike: ":" on line 15 through "(a)" on line 16

5. Page 9, lines 17 and 18.

Following: "act]" on line 17

Strike: "and" on line 17 through "1991" on line 18

6. Page 9, lines 19 through 25.

Strike: "all" on line 19 through "release" on line 25

Insert: "50% of the first \$35,000 of eligible costs and for 100%
of subsequent eligible costs up to a maximum total
reimbursement of \$982,500"

7. Page 10, line 1.

Following: "money"

Insert: "to pay approved claims for eligible costs"

8. Page 10, line 3.

Following: "reimbursement"

Insert: "for the costs at that time"

Following: "."

Strike: "If and when"

Insert: "When"

9. Page 17, line 12.

Strike: "equal to 0.75 cent"

10. Page 17, line 15.

Following: "distributor."

Insert: "The fee must equal:

(a) 1 cent for each gallon of gasoline distributed
from July 1, 1989 through June 30, 1991; and

(b) 0.75 cent for each gallon of gasoline distributed
after July 1, 1991."

11. Page 20.

Following: line 10

Insert: "(c) providing procedures for the review and approval of
corrective action plans;"

12. Page 20, line 11.

Strike: "(c)"

Insert: "(d)"

13. Page 20, line 15.

Strike: "(d)"

Insert: "(e)"

HOUSE BILL NO. 603

INTRODUCED BY RANEY, HARP, STANG, GILBERT, ECK,
COHEN, DRISCOLL, PATTERSON, PAVLOVICH, GUTHRIE,
WALLIN, PINSONEAULT, SQUIRES, SPAETH, HALLIGAN,

B. BROWN, MAZUREK, MEYER, HAGER, MANNING,
BECK, BENGTSON, DARRO, MCDONOUGH, SWYGOOD, JACOBSON,
O'KEEFE, HARPER, SCHYE, GRADY, DEMARS, GRINDE,
STRIZICH, DAILY, SPRING, THOMAS, MERCER, ADDY, VINCENT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR
REIMBURSEMENT TO OWNERS AND OPERATORS OF PETROLEUM STORAGE
TANKS FOR EXPENSES RELATED TO RELEASES FROM THOSE TANKS;
ESTABLISHING A PETROLEUM STORAGE TANK CLEANUP FEE TO BE PAID
BY GASOLINE DISTRIBUTORS AND COLLECTED BY THE DEPARTMENT OF
REVENUE; CREATING A PETROLEUM TANK RELEASE CLEANUP FUND AND
STATUTORILY APPROPRIATING MONEY IN THE FUND; CREATING A
PETROLEUM TANK RELEASE COMPENSATION BOARD; PROVIDING
CRIMINAL PENALTIES FOR CERTAIN MISREPRESENTATIONS; AMENDING
SECTION 17-7-502, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

(1) It is the intent of the legislature that the
petroleum tank release compensation board enact rules that:

(a) govern submission of claims by owners or operators
to the department and board;

(b) provide procedures for determining owners or
operators who are eligible for reimbursement and determining
the validity of claims;

(C) PROVIDE PROCEDURES FOR THE REVIEW AND APPROVAL OF
CORRECTIVE ACTION PLANS;

~~(c)~~(D) provide procedures for conducting board
meetings, hearings, and other business that are necessary
for the implementation of [sections 1 through 7 and 9
through 12]; and

~~(d)~~(E) are necessary for the administration of
[sections 1 through 7 and 9 through 12], provided that the
rules do not alter or conflict with the eligibility
requirements and procedures provided in [sections 1 through
7 and 9 through 12] or with the laws, rules, or procedures
of the federal government or the department of health and
environmental sciences that govern releases from petroleum
storage tanks.

(2) The department of health and environmental
sciences may adopt rules necessary to administer its
responsibilities under [sections 1 through 7 and 9 through
12], including requirements for approval of corrective
action plans.

(3) The department of revenue shall adopt rules
governing the collection of the petroleum storage tank
cleanup fee provided for in [section 7]. The rules may

1 include reporting and recordkeeping requirements, method and
 2 timing of payment, examination of records, and other
 3 provisions necessary to ensure that fees are properly and
 4 efficiently collected. The rules must be generally
 5 consistent with procedures governing the collection of the
 6 gasoline license tax provided for in Title 15, chapter 70,
 7 so that gasoline distributors experience minimum additional
 8 requirements or responsibilities.

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. **Section 1. Findings and purposes.** (1)

12 The legislature finds that the use of petroleum products
 13 stored in tanks contributes significantly to the economic
 14 well-being and quality of life of Montana citizens.

15 (2) The legislature finds that leaks, spills, and
 16 other releases of petroleum products from storage tanks
 17 endanger public health and safety, ground water quality, and
 18 other state resources.

19 (3) The legislature finds that current administrative
 20 and financial resources of the public and private sectors
 21 are inadequate to address problems caused by releases from
 22 petroleum storage tanks and need to be supplemented by a
 23 major program of release detection and corrective action.

24 (4) The legislature finds that proper funding for the
 25 program is through a petroleum storage tank cleanup fee paid

1 by persons who use and receive the benefits of petroleum
 2 products. The legislature further finds that this general
 3 use fee, provided for in [section 7], is intended solely to
 4 support a program to pay for corrective action and damages
 5 caused by releases from petroleum storage tanks. The general
 6 use fee is collected from distributors for administrative
 7 convenience and is not intended as a method for collecting
 8 highway revenue pursuant to the provisions of Article VIII,
 9 section 6, of the Montana constitution. The fee is intended
 10 to implement the legislature's duty to provide for the
 11 administration and enforcement of maintaining and improving
 12 a clean and healthful environment for present and future
 13 generations, as required by Article IX, section 1, of the
 14 Montana constitution.

15 (5) The purposes of [sections 1 through 7 and 9
 16 through 12] are to:

17 (a) protect public health and safety and the
 18 environment by providing prompt detection and cleanup of
 19 petroleum tank releases;

20 (b) provide adequate financial resources and effective
 21 procedures through which tank owners and operators may
 22 undertake and be reimbursed for corrective action and
 23 payment to third parties for damages caused by releases from
 24 petroleum storage tanks; and

25 (c) assist tank owners and operators in meeting

1 financial assurance requirements under state and federal law
2 governing releases from petroleum storage tanks.

3 NEW SECTION. **Section 2. Definitions.** The following
4 definitions apply to [sections 1 through 7 and 9 through
5 12]:

6 (1) "Accidental release" means a sudden or nonsudden
7 release, neither expected nor intended by the tank owner or
8 operator, of petroleum or petroleum products from a storage
9 tank that results in a need for corrective action or
10 compensation for third party bodily injury or property
11 damage.

12 (2) "Board" means the petroleum tank release
13 compensation board established in [section 8].

14 (3) "Bodily injury" means physical injury, sickness,
15 or disease sustained by an individual, including death that
16 results from the physical injury, sickness, or disease at
17 any time.

18 (4) "Claim" means a written request prepared and
19 submitted by an owner or operator or an agent of the owner
20 or operator for reimbursement of expenses caused by an
21 accidental release from a petroleum storage tank.

22 (5) "Corrective action" means investigation,
23 monitoring, cleanup, restoration, abatement, removal, and
24 other actions necessary to respond to a release.

25 (6) "Department" means the department of health and

1 environmental sciences provided for in Title 2, chapter 15,
2 part 21.

3 (7) "Distributor" means a distributor as defined in
4 15-70-201.

5 (8) "Eligible costs" means expenses reimbursable under
6 [section 3].

7 (9) "Fee" means the petroleum storage tank cleanup fee
8 provided for in [section 7].

9 (10) "Fund" means the petroleum tank release cleanup
10 fund established in [section 6].

11 (11) "Gasoline" means gasoline as defined in 15-70-201.

12 (12) "Operator" means a person in control of or having
13 responsibility for the daily operation of a petroleum
14 storage tank.

15 (13) "Owner" means a person who holds title to,
16 controls, or possesses an interest in a petroleum storage
17 tank. The term does not include a person who holds an
18 interest in a tank solely for financial security, unless
19 through foreclosure or other related actions the holder of a
20 security interest has taken possession of the tank.

21 (14) "Person" means an individual, firm, trust, estate,
22 partnership, company, association, joint stock company,
23 syndicate, consortium, commercial entity, corporation, or
24 agency of state or local government.

25 (15) "Petroleum" or "petroleum products" means crude

104

1 oil or any fraction thereof that is liquid at standard
2 conditions of temperature and pressure (60 degrees F and
3 14.7 pounds per square inch absolute).

4 (16) "Petroleum storage tank" means a tank that
5 contains petroleum or petroleum products and that is:

6 (a) an underground storage tank as defined in
7 75-10-403;

8 (b) a storage tank that is situated in an underground
9 area such as a basement, cellar, mine, draft, shaft, or
10 tunnel;

11 (c) an above ground storage tank with a capacity less
12 than 30,000 gallons; or

13 (d) above ground or underground pipes associated with
14 tanks under subsections (16)(b) and (16)(c), except that
15 pipelines regulated under the following laws are excluded:

16 (i) the Natural Gas Pipeline Safety Act of 1968 (49
17 U.S.C. 1671, et seq.);

18 (ii) the Hazardous Liquid Pipeline Safety Act of 1979
19 (49 U.S.C. 2001, et seq.); and

20 (iii) state law comparable to the provisions of law
21 referred to in subsections (16)(d)(i) and (16)(d)(ii), if
22 the facility is intrastate.

23 (17) "Property damage" means:

24 (a) physical injury to tangible property, including
25 loss of use of that property caused by the injury; or

1 (b) loss of use of tangible property that is not
2 physically injured.

3 (18) "Release" means a release, as defined in
4 75-10-701, of petroleum or petroleum products from a
5 petroleum storage tank.

6 NEW SECTION. **Section 3.** Reimbursement for expenses
7 caused by a release. (1) Subject to the availability of
8 funds under subsection (5), an owner or operator who is
9 eligible under [section 4] and complies with [section 5] and
10 any rules adopted to implement those sections must be
11 reimbursed by the board from the fund for the following
12 eligible costs caused by a release from a petroleum storage
13 tank:

14 (a) corrective action costs; and

15 (b) compensation paid to third parties for bodily
16 injury or property damage.

17 (2) An owner or operator may not be reimbursed from
18 the fund for the following expenses:

19 (a) corrective action costs or the costs of bodily
20 injury or property damage paid to third parties that are
21 determined by the board to be ineligible for reimbursement;

22 (b) costs for bodily injury and property damage, other
23 than corrective action costs, incurred by the owner or
24 operator;

25 (c) penalties or payments for damages incurred under

actions by the department, board, or federal, state, local, or tribal agencies or other government entities involving judicial or administrative enforcement activities and related negotiations;

(d) attorney fees and legal costs of the owner, operator, or a third party;

(e) costs for the repair or replacement of a tank or piping or costs of other materials, equipment, or labor related to the operation, repair, or replacement of a tank or piping;

(f) expenses incurred before [the date of passage and approval of this act];

(g) expenses exceeding the maximum reimbursements provided for in subsection (4).

(3) An owner or operator may designate a person as his agent to receive the reimbursement.

(4) Subject to the availability of funds under subsection (5):

(a) for releases that are discovered and reported on or after [the date of passage and approval of this act] and before--October--17--1991, the board shall reimburse an owner or operator for ~~all--eligible--costs--up--to--a--maximum reimbursement of \$1 million for a release; or~~

(b) ~~for releases that are discovered on or after October 17, 1991, an owner or operator shall pay the first~~

~~\$25,000--in--eligible costs and the board shall reimburse an owner or operator for all subsequent eligible costs up to a maximum reimbursement of \$975,000 for a release 50% OF THE FIRST \$35,000 OF ELIGIBLE COSTS AND 100% OF SUBSEQUENT ELIGIBLE COSTS, UP TO A MAXIMUM TOTAL REIMBURSEMENT OF \$982,500.~~

(5) If the fund does not contain sufficient money, TO PAY APPROVED CLAIMS FOR ELIGIBLE COSTS, a reimbursement may not be made and the fund and the board are not liable for making any reimbursement FOR THE COSTS AT THAT TIME. ~~if and when~~ WHEN the fund contains sufficient money, eligible costs must be reimbursed subsequently in the order in which they were approved by the board.

NEW SECTION. Section 4. Eligibility. (1) An owner or operator is eligible for reimbursement for eligible costs caused by a release from a petroleum storage tank only if:

(a) the release was discovered on or after [the date of passage and approval of this act];

(b) the department is notified of the release in the manner and within the time provided by law or rule;

(c) the department has been notified of the existence of the tank in the manner required by department rule;

(d) the release was an accidental release; and

(e) with the exception of the release, the operation and management of the tank complied with applicable state

124

1 and federal laws and rules when the release occurred and
2 remained in compliance following detection of the release.

3 (2) An owner or operator is not eligible for
4 reimbursement for expenses caused by releases from the
5 following petroleum storage tanks:

6 (a) a tank located at a refinery or a terminal of a
7 refiner;

8 (b) a tank located at an oil and gas production
9 facility;

10 (c) a tank that is or was previously under the
11 ownership or control of a railroad;

12 (d) a tank belonging to the federal government;

13 (e) a farm or residential tank with a capacity of
14 1,100 gallons or less that is used for storing motor fuel
15 for noncommercial purposes or a tank used for storing
16 heating oil for consumptive use on the premises where
17 stored;

18 (f) a tank owned or operated by a person who has been
19 convicted of a substantial violation of state or federal law
20 or rule that relates to the installation, operation, or
21 management of petroleum storage tanks; or

22 (g) a mobile storage tank used to transport petroleum
23 or petroleum products from one location to another.

24 NEW SECTION. **Section 5.** Procedures for reimbursement
25 of eligible costs. (1) An owner or operator seeking

1 reimbursement for eligible costs and the department shall
2 comply with the following procedures:

3 (a) If an owner or operator discovers or is provided
4 evidence that a release may have occurred from his petroleum
5 storage tank, he shall immediately notify the department of
6 the release and conduct an initial response to the release
7 in accordance with state and federal laws and rules to
8 protect public health and safety and the environment.

9 (b) The owner or operator shall conduct a thorough
10 investigation of the release, report the findings to the
11 department, and, as determined necessary by the department,
12 prepare and submit for approval by the department a
13 corrective action plan that conforms with state and federal
14 corrective action requirements.

15 (c) (i) The department shall review the corrective
16 action plan and forward a copy to a local government office
17 with jurisdiction over a corrective action for the release.
18 The local government office shall inform the department if
19 it wants any modification of the proposed plan.

20 (ii) Based on its own review and comments received from
21 a local government or other source, the department may
22 approve the proposed corrective action plan, make or request
23 the owner or operator to modify the proposed plan, or
24 prepare its own plan for compliance by the owner or
25 operator. A plan finally approved by the department through

1 any process provided in this subsection (c) is the approved
2 corrective action plan.

3 (iii) After the department approves a corrective action
4 plan, a local government may not impose different corrective
5 action requirements on the owner or operator.

6 (d) The department shall notify the owner or operator
7 and the board of its approval of a corrective action plan.

8 (e) The owner or operator shall implement the approved
9 plan. The department may oversee the implementation of the
10 plan, require reports and monitoring from the owner or
11 operator, undertake inspections, and otherwise exercise its
12 authority concerning corrective action under Title 75,
13 chapter 10, parts 4 and 7, and other applicable law and
14 rules.

15 (f) The owner or operator shall document in the manner
16 required by the board all expenses incurred in preparing and
17 implementing the corrective action plan. The owner or
18 operator shall submit claims and substantiating documents to
19 the department in the form and manner required by the board.
20 The department shall forward each claim and appropriate
21 documentation to the board and notify the board of any costs
22 that the department considers not reimbursable because of
23 any failure to meet the requirements of subsection (2). The
24 department shall inform the owner or operator of any
25 notification given notice to the board.

1 (g) The owner or operator shall document, in the
2 manner required by the board, any payments to a third party
3 for bodily injury or property damage caused by a release.
4 The owner or operator shall submit claims and substantiating
5 documents to the board in the form and manner required by
6 the board.

7 (2) The board shall review each claim received under
8 subsections (1)(f) and (1)(g), make the determination
9 required by this subsection, inform the owner or operator of
10 its determination, and, as appropriate, reimburse the owner
11 or operator from the fund. Before approving a reimbursement,
12 the board shall affirmatively determine that:

13 (a) the expenses for which reimbursement is claimed:

14 (i) are eligible costs; and

15 (ii) were actually, necessarily, and reasonably
16 incurred for the preparation or implementation of a
17 corrective action plan approved by the department or for
18 payments to a third party for bodily injury or property
19 damage; and

20 (b) the owner or operator:

21 (i) is eligible for reimbursement under [section 4];
22 and

23 (ii) has complied with this section and any rules
24 adopted pursuant to this section.

25 (3) If an owner or operator disagrees with a board

1 determination under subsection (2), he may submit a written
 2 request for a hearing before the board. The hearing must be
 3 held at a meeting of the board no later than 120 days
 4 following receipt of the request or at a time mutually
 5 agreed to by the board and the owner or operator.

6 (4) The board shall obligate money for reimbursement
 7 of eligible costs of owners and operators in the order that
 8 the costs are finally approved by the board.

9 (5) (a) The board may, at the request of an owner or
 10 operator, guarantee in writing the reimbursement of eligible
 11 costs that have been approved by the board but for which
 12 money is not currently available from the fund for
 13 reimbursement.

14 (b) The board may, at the request of an owner or
 15 operator, guarantee in writing reimbursement of eligible
 16 costs not yet approved by the board, including estimated
 17 costs not yet incurred. ~~However, the guarantee must include~~
 18 ~~a proviso stating that the guarantee of reimbursement~~
 19 ~~applies only to eligible costs subsequently approved by the~~
 20 ~~board under the procedures and criteria provided in~~
 21 ~~{sections 1 through 7 and 9 through 12}.~~ A guarantee for
 22 payment under this subsection (5)(b) does not affect the
 23 order in which money in the fund is obligated under
 24 subsection (4).

25 (c) When considering a request for a guarantee of

1 payment, the board may require pertinent information or
 2 documentation from the owner or operator. The board may
 3 grant or deny, in whole or in part, any request for a
 4 guarantee.

5 NEW SECTION. Section 6. Petroleum tank release
 6 cleanup fund. (1) There is a petroleum tank release cleanup
 7 fund in the state special revenue fund established in
 8 17-2-102. The fund is administered as a revolving fund by
 9 the board and is statutorily appropriated as provided in
 10 17-7-502.

11 (2) There is deposited in the fund:

12 (a) all revenue from the petroleum storage tank
 13 cleanup fee as provided in [section 7];

14 (b) money received by the board in the form of gifts,
 15 grants, reimbursements, or appropriations, from any source,
 16 intended to be used for the purposes of this fund;

17 (c) money appropriated or advanced to the fund by the
 18 legislature; and

19 (d) all interest earned on money in the fund.

20 (3) The fund may be used only:

21 (a) to administer [sections 1 through 7 and 9 through
 22 12], including payment of board and department expenses
 23 associated with administration;

24 (b) to reimburse owners and operators for eligible
 25 costs caused by a release from a petroleum storage tank and

approved by the board; and

(c) for repayment of any advance made under subsection (4), plus interest earned on the advance.

(4) (a) The legislature may appropriate to the fund repayable advances as necessary to carry out the purposes of [sections 1 through 7 and 9 through 12]. The outstanding total of repayable advances may not exceed the amount the board estimates will be received by the fund from the petroleum storage tank cleanup fee during the next 24 months.

(b) Advances to the fund must be repaid and interest earned on advances must be paid to the general fund when determined appropriate by the board. However, all advances to the fund plus the interest earned must be repaid on or before December 31, 1995.

NEW SECTION. Section 7. Petroleum storage tank cleanup fee -- COLLECTION -- PENALTIES -- WARRANT FOR DISTRRAINT -- STATUTE OF LIMITATIONS. (1) Except as provided in subsection (4), every distributor shall pay to the department of revenue a petroleum storage tank cleanup fee equal to ~~0.75-cent~~ for each gallon of gasoline distributed by him within the state and upon which the fee has not been paid by any other distributor. THE FEE MUST EQUAL:

(A) 1 CENT FOR EACH GALLON OF GASOLINE DISTRIBUTED FROM JULY 1, 1989, THROUGH JUNE 30, 1991; AND

(B) 0.75 CENT FOR EACH GALLON OF GASOLINE DISTRIBUTED AFTER JULY 1, 1991.

(2) Gasoline exported or sold for export out of the state may not be included in the measure of a distributor's fee.

(3) Alcohol that is blended with gasoline to be sold as gasohol is subject to the fee provided in subsection (1).

(4) A fee may not be imposed or collected beginning on the first day of the first month in the first calendar quarter after the unobligated balance in the fund equals or exceeds \$8 million. Whenever the unobligated fund balance is less than \$4 million, the department of revenue shall, within 7 30 days, notify distributors by mail that the fee is reinstated beginning on the first day of the first month that begins no less than 30 days after the date of the notice. Once reinstated, the fee must be imposed and collected until the unobligated fund balance again equals or exceeds \$8 million.

(5) THE DEPARTMENT OF REVENUE SHALL COLLECT THE FEE IN THE SAME MANNER AS THE BASIC GASOLINE LICENSE TAX UNDER TITLE 15, CHAPTER 70, PART 2. THE PROVISIONS OF 15-70-103, 15-70-111, 15-70-202, 15-70-205, 15-70-206, 15-70-208 THROUGH 15-70-212, 15-70-221(2), AND 15-70-232 APPLY TO THE FEE. THE PROVISIONS OF 15-70-203, 15-70-204, 15-70-207, 15-70-221(1), AND 15-70-222 THROUGH 15-70-224 DO NOT APPLY

1 TO THE FEE.

2 NEW SECTION. Section 8. Petroleum tank release
3 compensation board. (1) There is a petroleum tank release
4 compensation board.

5 (2) The board consists of seven members appointed by
6 the governor as follows:

7 (a) the director of the department of health and
8 environmental sciences or his representative;

9 (b) the state fire marshal or his representative;

10 (c) a representative of the petroleum services
11 industry;

12 (d) a representative of independent petroleum
13 marketers and chain retailers;

14 (e) a representative of the general public;

15 (f) a representative of service station dealers; and

16 (g) a representative of the insurance industry.

17 (3) The board shall elect a chairman.

18 (4) The term of membership is 3 years.

19 (5) Members shall serve without pay, but are entitled
20 to reimbursement for travel, meals, and lodging while
21 engaged in board business, as provided in 2-18-501 through
22 2-18-503.

23 NEW SECTION. Section 9. Powers and duties of board.

24 (1) The board shall administer the petroleum tank release
25 cleanup fund in accordance with the provisions of [sections

1 1 through 7 and 9 through 12], including the payment of
2 reimbursement to owners and operators.

3 (2) The board shall determine whether to approve
4 reimbursement of eligible costs under the provisions of
5 [section 5(2)], shall obligate money from the fund for
6 approved costs, and shall act on requests for the guarantee
7 of payments through the procedures and criteria provided in
8 [section 5].

9 (3) The board may conduct meetings, hold hearings,
10 undertake legal action, and conduct other business as may be
11 necessary to administer its responsibilities under [sections
12 1 through 7 and 9 through 12]. The board shall meet at least
13 quarterly for the purpose of reviewing and approving claims
14 for reimbursement from the fund and conducting other
15 business as necessary.

16 (4) The board may hire staff, and the department shall
17 provide staff support to the board as the department
18 determines it is able. The board shall use the fund to pay
19 its staff expenses and to pay for department staff utilized
20 for the review or preparation of corrective action plans and
21 for the oversight of corrective action undertaken by owners
22 and operators for the purposes of [sections 1 through 7 and
23 9 through 12].

24 (5) The board shall adopt rules to administer
25 [sections 1 through 7 and 9 through 12], including:

1 (a) rules governing submission of claims by owners or
2 operators to the department and board;

3 (b) procedures for determining owners or operators who
4 are eligible for reimbursement and determining the validity
5 of claims;

6 (C) PROCEDURES FOR THE REVIEW AND APPROVAL OF
7 CORRECTIVE ACTION PLANS;

8 ~~(c)~~(D) procedures for conducting board meetings,
9 hearings, and other business necessary for the
10 implementation of [sections 1 through 7 and 9 through 12];
11 and

12 ~~(d)~~(E) other rules necessary for the administration of
13 [sections 1 through 7 and 9 through 12].

14 NEW SECTION. Section 10. Rulemaking authority --
15 department and department of revenue. (1) The department may
16 adopt rules necessary to administer its responsibilities
17 under [sections 1 through 7 and 9 through 12], including
18 requirements for approval of corrective action plans.

19 (2) The department of revenue shall adopt rules
20 governing the collection of the petroleum storage tank
21 cleanup fee. The rules may include, at a minimum, reporting
22 and recordkeeping requirements, method and timing of
23 payment, and examination of records. The rules must be
24 generally consistent with procedures governing the
25 collection of the gasoline license tax provided for in Title

1 15, chapter 70.

2 NEW SECTION. Section 11. Other authorities
3 unaffected. Payment of reimbursement, approval of a
4 corrective action plan, or other action of the department or
5 the board under [sections 1 through 7 and 9 through 12] does
6 not affect the authority of the department or any other
7 state agency to pursue an action authorized by Title 75,
8 chapter 10, parts 4 or 7, or any other law or rule that
9 applies to releases from petroleum storage tanks.

10 NEW SECTION. Section 12. Criminal penalties. A person
11 who knowingly misrepresents the date of discovery of a
12 release, submits or causes to be submitted a fraudulent
13 claim or document, or makes a false statement or
14 representation in seeking or assisting a person to seek
15 reimbursement under [sections 1 through 7 and 9 through 12]
16 is subject to a fine not to exceed \$10,000 for each
17 violation or imprisonment not to exceed 6 months, or both.
18 A person convicted of a second or subsequent violation of
19 this section is subject to a fine not to exceed \$20,000 for
20 each violation or imprisonment not to exceed 1 year, or
21 both.

22 Section 13. Section 17-7-502, MCA, is amended to read:
23 "17-7-502. Statutory appropriations -- definition --
24 requisites for validity. (1) A statutory appropriation is an
25 appropriation made by permanent law that authorizes spending

112

1 by a state agency without the need for a biennial
2 legislative appropriation or budget amendment.

3 (2) Except as provided in subsection (4), to be
4 effective, a statutory appropriation must comply with both
5 of the following provisions:

6 (a) The law containing the statutory authority must be
7 listed in subsection (3).

8 (b) The law or portion of the law making a statutory
9 appropriation must specifically state that a statutory
10 appropriation is made as provided in this section.

11 (3) The following laws are the only laws containing
12 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
13 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
14 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;
15 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
16 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
17 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
18 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;
19 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501;
20 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101;
21 75-7-305; [section 6]; 76-12-123; 80-2-103; 80-2-228;
22 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306;
23 90-15-103; section 13, House Bill No. 861, Laws of 1985; and
24 section 1, Chapter 454, Laws of 1987.

25 (4) There is a statutory appropriation to pay the

1 principal, interest, premiums, and costs of issuing, paying,
2 and securing all bonds, notes, or other obligations, as due,
3 that have been authorized and issued pursuant to the laws of
4 Montana. Agencies that have entered into agreements
5 authorized by the laws of Montana to pay the state
6 treasurer, for deposit in accordance with 17-2-101 through
7 17-2-107, as determined by the state treasurer, an amount
8 sufficient to pay the principal and interest as due on the
9 bonds or notes have statutory appropriation authority for
10 such payments. (In subsection (3): pursuant to sec. 15, Ch.
11 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
12 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
13 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
14 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
15 1987, terminates July 1, 1988.)"

16 NEW SECTION. **Section 14.** Initial appointments to
17 board. (1) Notwithstanding [section 8], the members of the
18 petroleum tank release compensation board first appointed by
19 the governor shall serve for terms to be designated by the
20 governor and to expire on June 30 of the respective year.
21 The terms of two members must expire in 1990, two in 1991,
22 and three in 1992.

23 (2) The governor shall make the initial appointments
24 to the board no later than June 30, 1989.

25 NEW SECTION. **Section 15.** Severability. If a part of

1 [this act] is invalid, all valid parts that are severable
2 from the invalid part remain in effect. If a part of [this
3 act] is invalid in one or more of its applications, the part
4 remains in effect in all valid applications that are
5 severable from the invalid applications.

6 NEW SECTION. **Section 16.** Effective dates. (1)
7 [Sections 1, 2, 8, 9, 10, 14, 15,] and this section are
8 effective on passage and approval.

9 (2) [Sections 6, 7, and 13] are effective July 1,
10 1989.

11 (3) [Sections 3, 4, 5, 11, and 12] are effective
12 October 1, 1989.

-End-